Daley Corporation

General Engineering Contractor
Contractors License # A-749995

12570 Highway 67
Lakeside, CA 92040
Phone (619) 390-3900
Fax (619) 390-3901

November 5, 2014

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 Daley Bid submitted for CALTRANS Contract 11-406904

Dear Mr. McMillan:

I sent Hazard's latest "protest" letter to our lawyers for comment. Enclosed is their analysis which support award of the job to Daley Corporation.

I apologize in advance this matter has taken so much time, and look forward to completing this job for Caltrans.

Thank you,
Daley Corporation

John H. Daley, Jr.
President

Enclosure
Cc: Bid file

MarksFinch
Attorneys at Law

P. Randolph Finch Jr.
pfinch@marksfinch.com

File 473.001

November 5, 2014

VIA ELECTRONIC MAIL ONLY

Mr. John H. Daley Jr.
President
Daley Corporation
12570 Highway 67
Lakeside, California 92040
jdaleyjr@daleycorp.com

Re: *Caltrans Bid Protest*
Contract No. 11-406904

Dear Mr. Daley:

1. Introduction

At your request, we analyzed the bid documents, bid protest by Hazard Construction, and related letters for Caltrans Contract No. 11-406904. As detailed below, we do not anticipate Caltrans will reject Daley's bid. Although Caltrans rigorously enforces its subcontractor listing rules, Hazard has asked Caltrans to make up new rules which are inconsistent with Caltrans' past practice and unworkable in practice. Absent a major policy change, Caltrans will likely reject the protest.

2. Factual Background

A. The Project, Bid Documents And Bid Results

The bid documents for the project include Caltrans' typical subcontractor listing requirements: (1) bid-day listing of subcontractor name and general description of the subcontracted scope; and (2) 24-hour post-bid subcontractor list including bid items. Caltrans set a seven-percent DBE participation goal. The engineer's estimate for the project is $11 million. Daley submitted the low bid in the amount of $9,099,685.68 and exceeded the DBE goal.

B. Hazard's Protest

Hazard submitted a protest dated October 29, 2014, which asked Caltrans to reject Daley's low bid on multiple bases, all having to do with Daley's listing of DBE subcontractor Payco Specialties, Inc. ("Payco") for the striping and bridge deck work on the project. (Tab 1.) Daley responded via letter dated October 31, 2014 (Tab 2), and Hazard sent Caltrans a supplementary protest letter dated November 4, 2014 (Tab 3). Each protest allegation by Hazard is discussed below.

3. Analysis

A. Allegation Of Added Traffic Control Scope

i. Caltrans Has Rejected Hazard's Proposed Standard, In Favor Of The "Nexus" Standard

Hazard contends Daley's bid-day scope description for Payco—"Striping & Bridge Deck Prep (portion)"—did not cover the traffic control aspect of those activities, which Daley listed in its 24-hour subcontractor list. This claim is based on a hyper-technical reading of the bid-day scope listing requirement that Caltrans has historically rejected.

Summarily, Hazard asks Caltrans to adopt a standard requiring each and every subcontracted activity and activity component be separately listed on bid day, even if the components are related, essential to, or part of a basic scope. Hazard's standard essentially requires the bid-day list to be the same—state the same information—as the 24-hour list. That is not Caltrans' intent, which is why Caltrans has adopted and consistently enforces a different standard. Caltrans requires there to be a logical and factual "nexus" between the bid-day scope description and the 24-hour submission.

Caltrans most-recently approved the nexus standard less than two months ago on Contract No. 08-3401U4. (See Tab 4.) There, the low bidder listed a subcontractor for "Cold Plane AC and Related" in its bid-day list. The bidder provided further detail in the 24-hour list, stating the subcontractor would perform three items: (1) Cold Planing; (2) Remove Asphalt Concrete Surfacing; and (3) Rumble Strip. A higher bidder protested, contending that the bid-day "Cold Plane AC" description did not cover the related work of removing AC and installing rumble strips.

Caltrans rejected the protest, stating, "When the description of the work at the time of bid corresponds to the items listed on the 24-hour submittal, and a nexus is found between those bid item numbers and the work described, the bid is responsive." (Tab 4, emphasis added.) Applying the nexus standard, Caltrans concluded the activities were sufficiently related—you cannot do one without doing the others, they are typically handled by one subcontractor, etc. As such, the bid-day listing provided a sufficient "nexus."

Caltrans applies the nexus standard because Hazard's proposed standard is not workable—it does not tell Caltrans or bidders where to draw the line between activities or sub-scopes that must be specifically listed on bid day and those that should be listed on the 24-hour list. The idea is that 24-hours after the bid, more detailed information will be supplied. To illustrate, performing "striping" on a project requires dozens of components or sub-activities. The striper has to come to the job (mobilization, Bid Item 63), purchase the materials, conduct safety training, manage a large portion of the job site (Bid Item 10), make sure nobody drives on the stripes as he or she lays them down (Traffic Control, Bid Item 5), perform lead compliance (Bid Item 1), remove existing stripes (Bid Item 13), prepare the surface (Bid Item 19), do the striping (Bid Item 53), install non-reflective pavement markers (Bid Item 59) and install reflective pavement markers (Bid Item 60) (this is list non-exhaustive). Painting a stripe and installing pavement markers are clearly district construction activities. They are done at different times with

different equipment and different materials. The same is true of removing existing stripes. Yet Hazard does not object to Daley listing those scopes under Payco in its 24-hour list—likely because Hazard took the same approach in its own listing of Payco.

Although no standard is perfect, Caltrans' "nexus-of-activities" standard makes sense because it is based on common sense and actual construction practices. Everyone knows reflectors are installed as one of the numerous activities associated with striping. Although they are separate and distinct activities, you do not do one without the other. There is a logical construction nexus between the activities, such that a bid-day listing of "striping" reasonably covers installation of reflectors.

ii. Daley's Listings Meet The Caltrans "Nexus" Standard

The work at issue clearly falls within the same nexus of activities. You cannot stripe or prepare a deck for striping without controlling the traffic. Stripers move quickly and as a team, which requires close coordination with those controlling the traffic. Since striping cannot take place without traffic control and coordination is integral to the process, it is routine for striping contractors to control the traffic themselves, as opposed to coordinating with another subcontractor through the prime contractor. Payco's bid to Daley confirms this practice. (Tab 2.) Since Caltrans' "nexus" standard is based on real-world construction practices, Caltrans will likely conclude Daley's listing was proper.

iii. Hazard Mis-Characterizes Past Caltrans Rejections

Hazard tried to leverage Caltrans by citing past bid rejections. Caltrans will likely reject this approach because those decisions reflect Caltrans' nexus-of-activities standard rather than Hazard's hyper-technical standard.

- Contract No. 03-3E1004: Caltrans concluded the bidder's 24-hour list included items that lacked a nexus with the listed work. For example, the bidder added roadway excavation under the bid-day description of "Cold Plane AC." Caltrans stated, "The primary Roadway Excavation location involves lowering the profile of the structure, which means removing all of the structural section and additional material in the native basement soil. The performance of this work is not typically performed under the role of the cold planer." (Emphasis added.) Under Caltrans' nexus-of-activities standard, whether activities are "typically performed" by the same people/team/equipment is highly relevant. As such, this bid rejection actually shows why Daley's bid is acceptable, as stripers "typically perform[]" traffic control when they stripe. Similarly, on the bid cited by Hazard, Caltrans rejected the notion that joint sealing and traffic control—listed in the 24-hour submission—were "typically performed" by the same subcontractor that raised the bridge and performed structural concrete, as those heavy concrete activities performed well out-of-the-way of traffic.

- Contract No. 08-0F6604: The bidder listed a subcontractor for temporary fence, treated wood work, and guard rail, but added joint sealing to its scope in the 24-hour list. Caltrans applied the nexus-of-activities standard to reject the addition because fencing and guardrail contractors typically do not do joint sealing and certainly do not do joint sealing as part of their fencing and guardrail operations.

Similarly, the bidder listed a subcontractor for tree relocation and plant establishment, but added street sweeping and reset markers and delineators in the 24-hour submission. The added activities clearly lacked the required nexus.

- Contract No. 11-408904: The bidder listed a subcontractor for "aggregate approach slab," and added traffic control to its scope post-bid. Caltrans again applied the nexus standard to reject the bid because the contractor listed the approach slab installer as doing nearly half the traffic control on the entire project while the approach slabs were nominal. There was no nexus. Conversely, the striping contractor like Payco typically control traffic for their fast-moving work, use the same team for both activities, and do not perform traffic control for non-striping activities.

iv. Caltrans Will Likely Reject The "Stealing From Statewide" Argument

Hazard contends in the protest that Payco cannot perform any striping because Daley allocated work to Statewide Safety & Signs ("Statewide") on bid day. Hazard tries to mislead Caltrans by implying Daley committed to allocate 100 percent of the traffic control to Statewide. That is untrue. On the bid-day list, bidders are only required to describe the general scope to be performed by the subcontractor. There is no requirement to state whether the subcontractor will perform 100 percent of the scope or only a portion of the scope. That is a requirement on the 24-hour list. On its 24-hour list, Daley clearly stated Statewide would only perform a portion of the traffic control. In making this argument, Hazard again tries to transfer a requirement from the 24-hour list to the bid-day list. Caltrans recognizes the difference in the listing requirements and will reject this argument by Hazard.

Summarily, we expect Caltrans will continue to apply its nexus-of-activities standard and reject Hazard's unworkable proposed standard. Accordingly, Caltrans will likely reject this protest basis.

B. Allegation Of Inconsistent Listing On DBE Form

Hazard cites Contract No. 11-408904 for the notion that Caltrans cannot determine which scopes Daley will subcontract to Payco. On that bid, the bidder allocated Bid Item 19 to a subcontractor in its bid-day and 24-hour listings, but replaced Bid Item 19 with Bid Item 20 on its DBE documentation. Caltrans rejected the bid because it could not determine the true value of the total work being performed by the subcontractor, and therefore could not determine whether the DBE goal was met.

Hazard argues Caltrans is similarly inhibited in this case because Daley committed to allow Payco to prepare a portion of the Lead Compliance Plan for the job. Daley listed the plan (total value of $1,500.00) on the DBE form but not the subcontractor lists. Hazard's argument is without merit, as Caltrans does not face an unreconciliable inconsistency (Bid Item 19 or Bid Item 20 – which is it?). Rather, Caltrans knows exactly which scopes Daley committed to allow Payco to perform—the scopes listed in the DBE forms. Unlike the bid rejection cited by Hazard, Caltrans and Payco can enforce the commitment if Daley fails to meet that commitment during performance. In other words, this is a performance issue, not a bid responsiveness issue.

As noted in Daley's response to Hazard's protest (Tab 2), Hazard had multiple inconsistencies between its subcontractor lists and its DBE forms, and those inconsistencies are far more similar to the "Bid Item 19 versus Bid Item 20" issue in the past bid rejection cited by Hazard. As such, to reject Daley's bid, Caltrans would also have to reject Hazard's bid.

Additionally, Hazard characterized its mistakes as "clerical errors." (See Tab 3.) It is very surprising that Hazard would take this position, as the existence of a clerical error in Hazard's bid would preclude acceptance of the bid altogether. This is because clerical errors allow bidders to pull their bids under Public Contract Code section 5103, which affords them a "second look." California courts consider such "second looks" to be competitive advantages that preclude acceptance of a bid. (*Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal. App. 4th 1432, 1442.)

C. Allegation Of Unsigned DBE Form

Hazard curiously seeks award of the job based on Daley not signing the DBE form. California law is clear such an inadvertent signature omission is not grounds to force rejection of a bid. (*Menefee v. Cnty. of Fresno* (1985) 163 Cal. App. 3d 1175.)

4. Conclusion

Caltrans will likely reject Hazard's protest because Hazard asks Caltrans to abandon its nexus-of-activities standard. Please notify us if you would like us to prepare a letter to Caltrans detailing the above.

Very truly yours,

P. Randolph Finch Jr.,
Partner

Enclosures

PRF:kam/37L4705.DOCX

Tab 1

HAZARD
CONSTRUCTION

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

October 29, 2014

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 11-406904

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the bid forms as submitted by the apparent low bidder, Nicholas Grant Corp DBA Daley Corporation ("Daley") and asks that Caltrans find Daley non-responsive due to enlarging the scope of work by 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 thereby creating a violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code.

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, Daley submitted a Subcontractor List form, listing Payco Specialties Inc. under column one and listed the Description of Portion of Work to be performed under column 3 to be "Striping & Bridge Deck Prep (portion)" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Daley submitted a revised Subcontractor List providing, under column 4, the Bid Items 5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 2). Daley enlarged the scope of work of a listed subcontractor beyond the description provided at bid time to include Bid Item 5 – Traffic Control System at 7.81%. Traffic Control is clearly not related to permanent striping or bridge deck preparation. In fact, on the same page, Daley listed Statewide Safety & Signs for traffic control, construction area signs and crash cushions. It is clear that, at bid time, Daley did not intend to subcontract traffic control to Payco Specialties, but was afforded a competitive advantage after the bid by being able to reduce scope from one subcontractor and increase scope of another subcontractor in order to make the stated DBE goal for the project.

Finally, at bid time, Daley submitted a Subcontractor List form, listing Payco Specialties Inc. under column one and listed the Description of Portion of Work to be performed under column 3 to be "Striping & Bridge Deck Prep (portion)" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Daley submitted a revised Subcontractor List providing, under column 4, the Bid Items 5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 2). However, on its Disadvantaged Business Enterprise (DBE) Commitment Form, which is unsigned, Daley listed Payco Specialties to perform Bid Items 1,5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 3). It is impossible for Caltrans to determine what work was being subcontracted based on this inconsistency.

In summary, it is impossible to determine what work is being subcontracted by Daley and Daley was afforded a competitive advantage by being able to enlarge the scope of work for the listed subcontractors after the bid. For these reasons stated above, Hazard Construction hereby protests any award to Daley and asks that Daley'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.

Correct

PORTION

Caltrans has previously set precedence on this very issue on many other contracts including most recently on Contract 03-4M5804 where O.C. Jones & Sins, Inc. was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 4), Contract 03-3E1004 where Granite Construction Company was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 5), Contract 08-0F6604 where Sully Miller Contracting Company was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 6) 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 7).

If you have any questions regarding any of these matters or need further clarification, please do not hesitate to call me 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 1.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC0000101462
List this sub? Yes
4) Business NamePayco Specialties Inc
Location CityChula Vista StateCA
California Contractor License Number (a)
Description of Portion of Work
Striping & Bridge Deck Prep (portion)
Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes
5) Business NameStatewide Safety & Signs
Location CityPoway StateCA
California Contractor License Number (a)
Description of Portion of Work
Traffic Control & Construction area signs, Crash cushions
Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

EXHIBIT 2

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC0000101462
List this sub? Yes
4) Business NamePayco Specialties Inc
Location CityChula Vista StateCA
California Contractor License Number (a) 298637
Description of Portion of Work
Striping & Bridge Deck Prep (portion)
Bid Item Numbers
5 Traffic Control
Percentage of Bid Item Subcontracted
7.81
Bid Item Numbers
✓15, ✓19, ✓53, ✓54
Percentage of Bid Item Subcontracted
97.56, 94.74, 96.15, 97.22
Bid Item Numbers
✓55, ✓56, ✓57
Percentage of Bid Item Subcontracted
94.74, 96.67, 96.77
Bid Item Numbers
✓58, ✓59, ✓60
Percentage of Bid Item Subcontracted
96.97, 98.36, 98.36
Bid Item Numbers
✓63
Percentage of Bid Item Subcontracted
4.16

?!? - Lead Compliance Plan

List this sub? Yes
5) Business NameStatewide Safety & Signs
Location CityPowsy StateCA
California Contractor License Number (a) 975518
Description of Portion of Work
Traffic Control & Construction area signs, Crash cushions
Bid Item Numbers
✓5
Percentage of Bid Item Subcontracted
71.5
Bid Item Numbers
✓4
Percentage of Bid Item Subcontracted
97
Bid Item Numbers
✓6
Percentage of Bid Item Subcontracted
97.22
Bid Item Numbers
✓9
Percentage of Bid Item Subcontracted
97.06
Bid Item Numbers
✓45 - Object marker (Type P)
Percentage of Bid Item Subcontracted
100

EXHIBIT 3

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC0000101462
10-24-14A10:08 RCVD
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012)

Low Bidder

BID AMOUNT: 9,099,685.68
BID OPENING DATE: 10-21-14
DBE PRIME CONTRACTOR CERTIFICATION:

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 must be consistent, where applicable, with the names and items of work in the Subcontractor List. Copies of the DBE quotes are required.

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.

Total Claimed Participation $ 646,557.00
% 7.10
Person to Contact : Shannon Pullaro
(Area Code) Tel.No. : 619-328-1366

No Signature

Signature of Bidder Date

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC0000101462
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012) 10-24-14A10:08 RCVD

Bid Item No.
31 - 36
Item of work and description of services to be subcontracted or materials to be provided.
Place AC Dike and Misc Area
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)
A. C. Dike Co., CT # 000219
2788 /vebtyre Dr, Lincoln, CA 95648
916-652-0159
Dollar amount DBE 94,910.00

Bid Item No.
61, 62
Item of work and description of services to be subcontracted or materials to be provided.
Detector Loops
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)
Traffic Loops Crackfilling, Inc # 38033
946 S. Emerald Street, Anaheim CA 92804
714-520-4026
Dollar amount DBE 5,000.00

LESS THAN 0.5%
Not Listed at Bid Time

Bid Item No.
1 Portion, 5 Portion, 15, 19, 53 - 60, 63 Portion
Item of work and description of services to be subcontracted or materials to be provided.
Lead Plan, Traffic Control (Portion), prep bridge deck (Porti, striping, marker
FOR CALTRANS USE ONLY

Items added from Bid Time

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)
Payco Specialties Inc CT # 102
120 North Second Ave., Chula Vista, CA 91910
619-422-9204
Dollar amount DBE 152,852.00

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC0000101462
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012) 10-24-14A10:08 RCVD

Bid Item No.
26
Item of work and description of services to be subcontracted or materials to be provided.
Purchase & Transport of Liquid Asphalt for HMA
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)
LMS Transport CT # 38327
3810 Wacker Dr, Mira Loma, CA

Dollar amount DBE 325,509.00

Bid Item No.
10 & 11
Item of work and description of services to be subcontracted or materials to be provided.
Job Site Management (Portion) and prepare WPCP
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)
Alfred Civil Engineering # 41902
7604 Soquel Way, Citrus Heights, CA 95610
916-241-5309
Dollar amount DBE 15,150.00

Bid Item No.
39 & 40
Item of work and description of services to be subcontracted or materials to be provided.
Clean Expansion Joint and Joint seal
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) Less than 0.5%
(Indicate 2nd and lower tier subcontractors)
Austin Enterprise #CT 013602
PO Box 81926, Bakersfield, CA 93380
661-589-1001 Not Listed at bid time
Dollar amount DBE 11,086.00

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Unknown Bidder ID:VC9800101462
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012)

10-24-14A10:08 RCVD

Bid Item No.
1 Portion
Item of work and description of services to be subcontracted or materials to be provided.
Lead Compliance Planb, portion
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)
Adanta Inc # 37357
828 School Street, Napa, CA 94559
707-709-8894
Dollar amount DBE 1,250.00

Bid Item No.
7
Item of work and description of services to be subcontracted or materials to be provided.
Portable Changeable Message Sign
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)
Flash Traffic Inc CT#30050
PO Box 801360, Santa Clarita, CA 91380
661-262-6003
Dollar amount DBE 40,800.00

Bid Item No.

Item of work and description of services to be subcontracted or materials to be provided.

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

EXHIBIT 4

STATE OF CALIFORNIA – BUSINESS, TRANSPORTATION AND HOUSING AGENCY EDMUND G. BROWN Jr., Governor

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 26, 2014

Facsimile: (510) 526-0990

Greg Souder, Secretary
O.C. Jones & Sons, Inc.
1520 Fourth Street
Berkeley, CA 94710

03-4M5804
03-Sac,Yol-50, 99, 160-Var
B.O. 03/12/14

Dear Mr. Souder:

The Department of Transportation (Caltrans) received a bid submitted by O.C. Jones & Sons, Inc. (O.C. Jones), for Contract No. 03-4M5804 on March 12, 2014. By this letter, Caltrans notifies O.C. Jones, that its bid is nonresponsive.

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 nonresponsive bid."

On bid day O.C. Jones, identified FBD Vanguard, to perform work described as aggregate approach slab. However, on its 24hr Subcontractors list form enlarged the scope of work to include bid item 3, Traffic Control.

Based on the above, Caltrans will proceed to award this contract to the lowest responsible bidder.

Your attention is directed to Section 3-1.04 of the Amendments to 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 Melissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

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

Attachment

EXHIBIT 5

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS 43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Fix your power!
Be energy efficient!

January 24, 2014

Facsimile: (916) 369-0429

Colin C. Crawford, Chief Estimator
Granite Construction Company
P.O. Box 15287
Sacramento, CA 95851-0287

03-3E1004
03-Pla-080-8.1/37.8
B.O. 11/06/2013

Dear Mr. Crawford:

The Department of Transportation (Caltrans) received a bid submitted by Granite Construction Company (Granite) for Contract No. 03-3E1004 on November 6, 2013. By this letter, Caltrans notifies Granite that its bid is nonresponsive because of a change in the scope of work for one of the subcontractors on the Subcontractor List form.

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 nonresponsive bid.*" *No other revisions to the form are permitted.*

On the Subcontractor List form submitted with its bid, Granite identified Myers & Sons Construction (Myers) as only performing work described as Polyester Concrete, Bridge Removals, Raise Bridge, Structure Concrete, Drill & Bond Dowel, Bridge Barrier, and Bar Reinforcing Steel (Bridge Related). However, on the 24-hour Subcontractor List form submitted on November 7, 2013, Bid Item 5 - Traffic Control System, Bid Item 32 - Temporary Concrete Washout, and Bid Item 127 – Joint Seal (MR 1") were added in column 2 as work to be performed by Myers. The inclusion of these bid items in the 24-hour submission enlarge the scope of work that was initially identified in column 4 of the Subcontractor List form submitted with the bid. In addition, Granite identified ABSL as only performing work described as Cold Plane AC. However, on the 24-hour Subcontractor List form, Granite revised the scope of work to include Bid Item 81 – Roadway Excavation. The primary Roadway Excavation location involves lowering the profile under the structure, which means removing all of the structural section and additional material in the native basement soil. The performance of this work is not typically performed under the role of a cold planer. Therefore, the scope of work initially identified to be performed by ABSL was enlarged with the submission of the 24-hour form as this item could not be included under the description of Cold Plane AC. Consequently, these revisions are a violation of the bidding instructions as well as the subcontractor listing laws.

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

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 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Flex your power!
Be energy efficient!

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 7

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Flex your power!
Be energy efficient!

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 MuEssa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

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

Attachment

Tab 2

Daley Corporation

General Engineering Contractor
Contractors License # A-749995

12570 Highway 67
Lakeside, CA 92040
Phone (619) 390-3900
Fax (619) 390-3901

October 31, 2014

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 Daley Bid submitted for CALTRANS Contract 11-406904

Dear Mr. McMillan:

Daley Corporation has reviewed bid protest submitted by Hazard Construction of bid submitted by Nicholas Grant Corp DBA Daley Corporation for CALTRANS Contract 11-406904. Daley requests that Caltrans consider the following in regards to Hazard protest.

Hazard contends that Daley enlarged scope of Payco Specialties in order to make the stated project DBE goal by adding portion of traffic control. Daley disputes this contention. PAYCO Specialties provided a quote at bid time, copy attached exhibit 1, that included cost for Payco to provide traffic control for their striping scope of work only. Daley included this cost at bid time in our selection of Payco. We considered their traffic control portion as part of striping scope for the best execution of project. Scope of work was not adjusted or added in an effort to achieve DBE Goal.

Hazard contends that on Disadvantaged Business Enterprise (DBE) Commitment Form, that Daley added item 1 Lead Compliance Plan, again in an effort to achieve DBE Goal. Per attached PAYCO quote, they provided lead compliance plan pricing that was applicable to the stripe removal only. Again, we consider this a small item tagged to the stripe removal awarded to PAYCO as part of the striping scope for the best execution of project. Scope of work was not adjusted in an effort to achieve DBE Goal.

Daley believes issues raised are not grounds for deeming our bid nonresponsive, and notes that Hazard bid proposal, exhibit 2, and DBE Commitment form, exhibit 3, are not consistent. Hazard indicated description of work for Traffic Loops Crackfilling as "Electrical", items 61 – 62. However, on DBE Commitment form they are listed as items 8 – 10, 15-22, "Roadside Signs". Hazard did not indicate mobilization under Description

Daley Corporation

General Engineering Contractor
Contractors License # A-749895

12570 Highway 67
Lakeside, CA 92040
Phone (619) 390-3900
Fax (619) 390-3901

of Work for Payco at bid time. However this scope was added on bid form and on DBE Commitment form for Payco.

In summary, the scope awarded to PAYCO Specialties at bid time was per their quoted scope and price. No adjustments were made to provide a competitive advantage or to achieve DBE Goal. Daley also submitted their GOOD FAITH EFFORT that documents that in the event the goal was not achieved, Daley made all required efforts to meet the goal. For these reasons stated above, Daley Corporation requests that bid protest issues submitted by Hazard be considered insufficient cause to deem Daley's bid as nonresponsive and requests Caltrans to proceed with contract award to Daley Corporation.

Sincerely,
Daley Corporation

John H. Daley, Jr.
President

Attachments
Cc: Bid file

10/21/2014 08:53 6194221474 PAGE 01

10-21 Exhibit 1

Payco Specialties, Inc.

Highway - Airport - Parking Lot - Signage - Striping & Marking Removals

SBE #18502 - UDBE / DBE / WBE #102 - LABORERS LOCAL UNION #1184 - LICENSE #298637 B, C-32

BID PROPOSAL
FEDERAL

Project Description:	11-406904 RT 8 ALPINE			Bid Date:	10/21/2014
Contract Time Limit:	W.D.	Liquidated Damages:	per C.D.	Addendums Noted:	

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Item Total
1	LEAD COMPLIANCE PLAN (PORTION)	1.00	LS	$ 1,200.00	$ 1,200.00
5	TRAFFIC CONTROL SYSTEM (PORTION)	1.00	LS	$ 25,000.00	$ 25,000.00
15	REMOVE PAINT STRIPE	690.00	LF	$ 2.00	$ 1,380.00
19	PREPARE PCC BRIDGE DECK SURFACE	33,209.00	SF	$ 0.18	$ 5,977.62
53	PAINT STRIPE (1-COAT)	1,570.00	LF	$ 0.25	$ 392.50
54	6" THERMO. STRIPE (WET VIZ.)	141,000.00	LF	$ 0.35	$ 49,350.00
55	8" THERMO. STRIPE (WET VIZ.)	4,610.00	LF	$ 0.90	$ 4,149.00
56	THERMO. X-WALK / PVMT. MARKING (WET VIZ.)	1,340.00	SF	$ 2.90	$ 3,886.00
57	6" THERMO.STRIPE (WET VIZ, BKN. 17-7)	1,330.00	LF	$ 0.60	$ 798.00
58	6" THERMO. STRIPE (WET VIZ.BKN. 36-12)	89,100.00	LF	$ 0.32	$ 28,512.00
59	PVMT. MARKER (NON-REFL)	7,440.00	EA	$ 1.20	$ 8,928.00
60	PVMT. MARKER (RETROREFL)	3,760.00	EA	$ 3.00	$ 11,280.00
63	MOBILIZATION (PORTION)	1.00	LS	$ 12,000.00	$ 12,000.00
					$ -
NOTE !	ITEM #19 BY "SHOT BLAST" UNDER YOUR T/C.				$ -
	TEMP. STRIPE AVAIL. @ $1350.00 PER 1/2 SHIFT.				$ -
					$ -

STIPULATIONS: RECIPIENT IS RESPONSIBLE FOR ALL STIPULATIONS NOTED HEREON AND BELOW

* Extra Work exceeding 25% of Engineer's estimate shall be paid at contract unit price or an agreed upon price by the Prime Contractor.
* A signed Purchase Order or Subcontract is required prior to any work associated with this Proposal.
* This Proposal is based on an 8 hour shift per workday, any overtime (premium time) will be paid by the Prime Contractor.
* This Proposal is valid for 30 days after the bid date.
* If accepted, this Proposal will be incorporated as an Exhibit to the Contract or Purchase Order.
* **A minimum of 15 working days schedule notice is required AFTER ALL PAPERWORK IS COMPLETED.**
* Bond cost to be paid by Prime Contractor.
* ANY, special / additional insurance will be charged a flat rate of $400.00. Some specialized wording may not available. Please call.
* A Mobilization / Move-In is any work accomplished through consecutive shifts. Unavailable work and all extra-work will be charged additional mobilizations upon completion.

EXCLUSIONS:
PLANS-PERMITS-L.D.'S-TEMP. DELIN.-SIGNAGE-SWEEPING-PCMS-CONTROL PTS.-STATIONING..

INCLUSIONS:
TRAFFIC CONTROL FOR PAYCO WORK. (UNLESS YOU PROVIDE)- CLEAN UP OF PAYCO REMOVAL DEBRIS..

# of Working Days to Complete our Work: 10 # of Move-In's Allotted: 4 Add'l Move-In's: $ 1,300.00

BID AMOUNT: $ 152,853.12 ESTIMATOR: BILL TAYLOR

120 North Second Avenue, Chula Vista, CA 91910-1127
Phone (619) 422-9204 / Fax (619) 427-1620

EXHIBIT 2

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name:Hazard Construction Company Bidder ID:VC0000008369
List this sub? Yes
8) Business NameTraffic Loops Crackfilling, Inc.
Location CityAnaheim StateCA
~~California~~ Contractor License Number (a) 652956
Description of Portion of Work
Electrical ~~DOES~~ IS NOT CONSISTENT W/ DBE COMMITMENT FORM
~~Bid Item~~ Numbers
61-62
Percentage of Bid Item Subcontracted
100
Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

EXHIBIT 3

Second Bidder

10-24-14A10:09 RCVD

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION

CALTRANS BIDDER - DBE - COMMITMENT

DES-OE-0102.10B (NEW 06/2012)

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: 11-406904

BID AMOUNT: $9,123,900.95

BID OPENING DATE: 10/21/2014

BIDDER'S NAME: HAZARD CONSTRUCTION COMPANY

DBE GOAL FROM CONTRACT, %: 7%

DBE PRIME CONTRACTOR CERTIFICATION [1]: N/A

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED [2]	FOR CALTRANS USE ONLY	NAME OF UDBEs (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 [3]
11	Water Pollution Control Plan		**JL Stormwater Consultants, Inc.** 140 W. Park Ave, Ste 115 El Cajon, CA 92020 619-938-2420 / DBE #37409	$500.00
31-36	Place AC Dike, Place Misc AC		**A.C. Dike Co.** 2788 Venture Dr. Lincoln, CA 95648 916-652-0159 / DBE #219	$94,910.00
8-10, 15-22	Roadside Signs		**Traffic Loops Crackfilling, Inc.** 946 S. Emerald Street Anaheim, CA 92804 714-520-4026 / DBE #38033	$5,000.00
1(P),5(P),15, 53-60,63(P)	Lead Plan, Remove Striping, Striping & Markers, Temp Striping		**Payco Specialties, Inc,** 120 North Second Ave Chula Vsita, CA 91910 619-422-9204 / DBE #102	$136,725.50
26(P)	Supply & Transport PG64-10 Paving Grade Oil to HMA Supplier - 2nd Tier to Vulcan Materials		**LMS Transport** 3810 Wacker Dr. Mira Loma, CA 91752 951-616-3828 / DBE #38327	$356,242.50
26(P), 28(P)	QC Testing of HMA / RHMA		**Sequoia Consultants** 361 W. Grove Ave Orange, CA 92865 714-974-6193 / DBE #35308	$115,340.00
			Total Claimed Participation	$ $708,718.00 7.77%

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 must 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.

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 Enterprise," under Section 2 "Bidding" of the Special Provisions to determine the credit allowed for DBE firms.

Signature of Bidder Jason Mordhorst, President

Date 10/22/14 (858) 587-3600 (Area Code) Tel. No.

Jason A. Mordhorst
Person to Contact (Please Type or Print)

Submit to:

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95816-7005

ADA Notice 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 Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

Tab 3

HAZARD
CONSTRUCTION

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

November 4, 2014

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

Re: Rebuttal to Bid Protest of Apparent Low Bidder
Caltrans Contract 11-406904

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the Bid Protest Response provided by Nicholas Grant Corp DBA Daley Corporation ("Daley") on October 31, 2014 whereby Daley has admitted to adding scope of work to a subcontractor within 24-hours that was not listed at bid time. This has created a competitive advantage that no other bidder was afforded. If Daley intended to utilize Payco Specialties, Inc. for traffic control, they should have listed that scope of work at bid time, similar to their listing of Statewide Safety & Signs for traffic control. This is a direct violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code. Traffic Control and Lead Compliance Plan are not a portion or part of the "striping scope", as Daley has stated, but a completely separate section of the specifications and a completely separate bid item of work.

Daley was afforded a competitive advantage by being able to enlarge the scope of work for the listed subcontractors after the bid. For these reasons stated above, Hazard Construction hereby protests any award to Daley and asks that Daley'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.

Daley's notation that Hazard's bid day listing of subcontractor Traffic Loops Crackfilling is not consistent with its DBE Commitment Form is a clerical error on the DBE Commitment Form and not a violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code. At bid time, Hazard submitted our Subcontractor List form, listing Traffic Loops Crackfilling for the Description of Portion of Work to be performed to be "Electrical" and listed Bid Items 61-62 at bid time along with the percentage of bid item subcontracted. The DBE Commitment Form mistakenly listed Roadside Signs for Traffic Loops Crackfilling when the scope of work should have been listed as Electrical to match our bid day listing. The dollar amount and the bid items on Traffic Loops Crackfilling quote (Exhibit 1) match the Bid day listing. The utilization of Traffic Loops Crackfilling was not the deciding factor in meeting or not meeting the DBE goal for this project. For this reason, we believe that Daley's notation lack merit.

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

Sincerely,
HAZARD CONSTRUCTION COMPANY

Jason A. Mordhorst
President

Attachments
cc: Bid File

Traffic Loops Crackfilling, Inc.

946 S. Emerald Street, Anaheim CA 92804 • Tel: (714) 520 4026 Fax: (714) 520 4027
State License # 632936 • Class C-10 & C-32 • UDBE # 38033
Email: Mailan@tclac-ca.com

Quotation

Date: 10/20/2014
Attn: Estimator
Owner: Caltrans
Project: Caltrans No. 11-406904, Route 8 near Alpine
Bid Date: 10/21/2014 @ 2:00 PM

BID ITEM	DESCRIPTION	QTY.	UNIT	UNIT PRICE	ITEM TOTAL
61	Maintaining Existing TMS Elements Durig Construction	1	LS	500.00	500.00
62	Detector Loop (EA)	3	EA	1,500.00	4,500.00
				TOTAL BID AMOUNT:	$ 5,000.00

- Quote is good for 180 days from the date of this proposal.
- 10 days notice required for scheduling.
- Site must be ready with cat-track or permanent striping prior to loop installation.
- Additional charges may incur for extra move-ons.

Our quote includes:
1- Lay out, saw cut, wash, blow, dry, seal, and mags
2- Loop saw cut shall be filled with Hot Melt Sealant
3- Insurance coverage up to $1 million, general aggregate up to $2 million
4- One move-on

Our quote excludes:
1- Bond fee, permit fee, utilities fee, advance sign posting of any kind, or notifying residents
2- Traffic control
3- Weekend work

All inclusions and exclusions are to be incorporated into our contract. If either party becomes involved in litigation or arbitration arising out of this contract, the court or arbitration panel shall award attorney's fees and costs to the prevailing party.

Please call if you have any questions or need more information.

Sincerely,

Mai-Lan Nguyen

R.P.A

Tab 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.
Help save water!

September 10, 2014

Facsimile: (951) 788-2449

Tim Wilson, Vice President
Skanska USA Civil West CA District
1995 Agua Mansa Road
Riverside, CA 92509-2405

08-3401U4
08-SBd-2, 138-6.2/6.4,2.3/R15.2
B.O. 07/24/2014

Dear Mr. Wilson:

The Department of Transportation (Caltrans) received the attached letter dated August 13, 2014, from Skanska USA Civil West California District (Skanska), protesting the Subcontractor List form submitted by Flatiron/Hardy Harper A Joint Venture (Flatiron/Hardy). The protest alleges that Flatiron/Hardy failed to comply with the Caltrans Subcontractor Listing Requirements by revising the 24 hour Subcontractor List form. Specifically, Skanska argues that Flatiron/Hardy listed the description of work as Cold Plane AC and Related on the Subcontractor List form submitted on bid day but on the 24 hour listing, added bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip), neither of which are related to the description of Cold Plane AC and Related (Partial). Skanska requests that Caltrans find Flatiron/Hardy nonresponsive and award the contract to Skanska.

Caltrans reviewed the bid documents submitted by Flatiron/Hardy. The description of subcontracted work was described as *"Cold Plane AC and Related"* is considered responsive. When the description of work at time of bid corresponds to the items listed on the 24 hour submittal, and a nexus is found between those bid item numbers and the work described, the bid is responsive. In this case, it is the determination of Caltrans that bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip) sufficiently correspond or are related to the work described as Cold Plane AC and Related (Partial).

Caltrans finds Skanska's protest does not have 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

SKANSKA

Skanska USA Civil West California District Inc.
Estimating Department
1995 Agua Mansa Road
Riverside, CA 92509-2405
Phone 951 684 6360
Fax 951 788 2449
Web www.skanska.com

August 13, 2014

By Facsimile and Certified Mail

08-18-14 A10:18 IN

John C. McMillan
Department of Transportation
Division of Engineering Services
Office Engineer
1727 30th Street
Sacramento, Ca. 95816-8041

Reference: Contract 08-3401U4
Construction of State Highway in San Bernardino County on Route 138

Subject: Letter of Protest-: Non- Responsive Bidder Flatiron/Hardy &Harper A Joint Venture

Dear Mr. McMillan

Please consider this letter as Skanska USA Civil West California District Inc.'s formal protest against the bid submitted by Flatiron/Hardy & Harper A Joint Venture for failure to comply with the Caltrans Subcontractor Listing requirements and California Public Contract Code Section 4104. The bid submitted by Flatiron/Hardy & Harper did not comply with the Caltrans Subcontractor Listing Requirements which in part state,...."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 nonresponsive bid."

The Caltrans Subcontractor List submitted at bid time (July 24, 2014) by Flatirion/Hardy&Harper listed Pavement Recycling to perform the work description of **"Cold Plane AC and Related(Partial)"**. (See Attachment 1).

The subsequent Subcontractor List submitted on July 25, 2014 listed Pavement Recycling to perform the work items as follows (See Attachment#2):

Column 1:	Column 2:	Column 3:	Column 4:
Business Name and Location	Item Nos.	% of Bid Item Subcont.	Subcontracted Work
Pavement Recycling	**49**	**98%**	**Cold Plane AC and Related (Partial)**
Jurupa, CA			
	61	**98%**	
	99	**98%**	

The Subcontractor list form submitted on July 25, 2015 added **bid item 49 Remove Asphalt Concrete Surfacing and bid item 99 Rumble Strip.**

The addition of these two descriptions of work is a clear revision/addition from the form originally submitted on July 24, 2014. Therefore, the bid submitted by Flatiron/Hardy & Harper must be deemed nonresponsive for violating the Caltrans subcontract listing requirements and the California Public Contract Code Section 4104.

Caltrans has recently deemed various bids nonresponsive for similar subcontractor listing violations. Please reference the following Caltrans nonresponsive letters:

Attachment #3: Contract 08-0C1214

Attachment #4: Contract 02-2E5104

Attachment #5: Contract 04-3A23U4

In addition, Rumble Strip in not related to the item of work description "Cold Plane AC". Rumble Strip is a totally separate item of work with separate specifications and quantity tables(See Attachment#6). Rumble Strip is a permanent work not related to temporary work such as cold plane asphalt. Rumble strip is not performed in conjunction with cold plane asphalt and therefore should not be considered related to cold plane asphalt.

Furthermore, Rumble strip is commonly listed as a separate work description as referenced in the following Attachments:

Attachment # 7- Contract 08-0K2704 Bid Summary and Sub Listing

Attachment #8- Contract 08-0C1214 Bid Summary and Sub Listing

Attachment #9- Contract 08-0K2604 Bid Summary and Sub Listing

In closing, given the precedence that has been set forth by Caltrans and the obvious revisions made to the sub listing form submitted, we respectfully request that the bid submitted by Flatiron/Hardy & Harper be deemed nonresponsive and the contract be awarded to the lowest responsible bidder Skanska USA West California District, Inc.

If you have any questions, or need additional information please contact me at (951) 684-5360.

Sincerely,

Tim Wilson

Skanska USA Civil West California District, Inc.

Vice President District Manager

** Transmit Conf.Report **

P.1 Sep 10 2014 04:22pm
CALTRANS CONTR AWARDS Fax 916-227-6282

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
919517882449	Normal	10:04:21pm	1'07"	4	* O K	

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. Help save water!

September 10, 2014

Facsimile: (951) 788-2449

Tim Wilson, Vice President
Skanska USA Civil West CA District
1995 Agua Mansa Road
Riverside, CA 92509-2405

08-3401U4
08-SBd-2, 138-6.2/6.4,2.3/R15.2
B.O. 07/24/2014

Dear Mr. Wilson:

The Department of Transportation (Caltrans) received the attached letter dated August 13, 2014, from Skanska USA Civil West California District (Skanska), protesting the Subcontractor List form submitted by Flatiron/Hardy Harper A Joint Venture (Flatiron/Hardy). The protest alleges that Flatiron/Hardy failed to comply with the Caltrans Subcontractor Listing Requirements by revising the 24 hour Subcontractor List form. Specifically, Skanska argues that Flatiron/Hardy listed the description of work as Cold Plane AC and Related on the Subcontractor List form submitted on bid day but on the 24 hour listing, added bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip), neither of which are related to the description of Cold Plane AC and Related (Partial). Skanska requests that Caltrans find Flatiron/Hardy nonresponsive and award the contract to Skanska.

Caltrans reviewed the bid documents submitted by Flatiron/Hardy. The description of subcontracted work was described as *"Cold Plane AC and Related"* is considered responsive. When the description of work at time of bid corresponds to the items listed on the 24 hour submittal, and a nexus is found between those bid item numbers and the work described, the bid is responsive. In this case, it is the determination of Caltrans that bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip) sufficiently correspond or are related to the work described as Cold Plane AC and Related (Partial).

Caltrans finds Skanska's protest does not have 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

DALEY CORPORATION
General Engineering Contractors – License # 749995
12570 Hwy 67, #10
619-390-3900 FAX 619-390-3901

FAX

To:	Caltrans	**From:**	Shannon Pullaro
Attn:	Office of Engineer	**Date:**	11/5/14
Fax:	916-227-6282	**Pages:**	Including cover 35
Phone:		**RE:**	11-406904 Rebuttal to Bid Protest

■ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply**

•Comment:

Nicholas Grant Corporation DBA Daley Corporation for project 11-406904: Rebuttal to Hazard Construction "protest" letter

DALEY CORPORATION
General Engineering Contractors – License # 749995
12570 Hwy 67, #10
619-390-3900 FAX 619-390-3901

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