

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!*

May 15, 2014

Facsimile: (858) 453-6034

Jason A. Mordhorst, VP
Hazard Construction Company
6465 Marindustry Drive
San Diego, CA 92192-9000

11-416104
11-SD-15-M20.3/M20.9
B.O. 4/24/14

Dear Mr. Mordhorst:

The Department of Transportation (Caltrans) received the attached letter dated May 5, 2014, from Hazard Construction Company (Hazard), protesting the bid submitted by T.C. Construction Company (T.C.). The protest alleges that T.C. is not eligible to receive the Non-Small Business Preference (NSBP), since T.C. failed to submit the NSBP form within the allotted time.

Caltrans reviewed the post bid submittals for T.C. and confirms that the NSBP form was received on April 30, 2014 at 1:44 PM, 4 days after the bid opening. Therefore, T.C. is no longer eligible to receive the NSBP for this contract.

Based on the above, Caltrans finds Hazard's protest has merit and will proceed to award the contract to the lowest responsible bidder, provided that all requirements have been met.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

Attachment

Low Bidder

9-30-14 P01:44 RCVD

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

CERTIFIED SMALL BUSINESS LISTING FOR THE NON-SMALL BUSINESS PREFERENCE

DES-OE-0102.8 (REV 2/2011)

BIDDER NAME TC CONSTRUCTION Co. INC.

CONTRACT NO. 11-416104

List the description of work, name, telephone number, certification number, and dollar amount of each certified small business who will be employed on this project. Failure to provide this information may be cause for denial of the non-small business subcontractor preference. Attach additional sheets if necessary.

Submit to:

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

| Bid Item Number | Description of Work, Service, or Materials | Certified Small Business (Name, Telephone No., and Certification No.) | \$ Amount |
|-----------------|---|---|-----------|
| 37-42 | Striping/Markings/Markers | Payco Specialties Inc. 619-422-9204 Cert No. 18502 | 22,570 |
| 3 | Traffic Control | Carolino Traffic Control, Inc 619-434-9200 Cert No. 1259580 | 26,250 |
| 19 | Liquid Asphalt Purchase & Transport | LMS Transport 951-616-3828 Cert No. 38327 | 80,141 |
| 43+44 | Maintain Traffic System, Ramp Metering System | Lekos Electric, Inc. 619-447-7661 Cert No. 1744968 | 30,000 |

AUSTIN CAMERON

Person to Contact (Please Type or Print)

619-448-4560

(Area Code) Telephone Number

\$ 158,961

Total Claimed Participation

30 % of Contract

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.

Contract No. 11-416104



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

May 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 Apparent Low Bidder
Caltrans Contract 11-416104

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the bid forms as submitted by the apparent low bidder, T.C. Construction Company, Inc. ("TC") and asks that Caltrans not apply the claimed Non-small business preference to TC's bid due to not submitting the required forms as required by the specifications. At bid time, TC submitted a request for non-small business preference, but failed to timely submit the Certified Small Business Listing for the Non-Small Business Preference with appropriate back-up to substantiate the claimed participation. This project bid at 2 p.m. on April 24, 2014. The second business day after the bid opening would be Monday, April 28, 2014. TC's paperwork was time stamped in by Caltrans on Wednesday, April 30, 2014 at 1:44 PM. (Attachment 1)

Section 2-1.18C Non-Small Business Subcontractor Preference of the 2010 Standard Specifications states:

The Department allows a bidder not certified as a small business by the Department of General Services, Office of Small Business and DVBE Services, a preference if:

1. Bidder submitted a completed *Request for Small Business Preference or Non-Small Business Preference* form with its bid.
2. *Certified Small Business Listing for the Non-Small Business Preference* form shows that you are subcontracting at least 25 percent to certified small businesses. You may submit this information with your bid. If you do not, submit it such that it is received at the Office Engineer no later than 4:00 p.m. on the 2nd business day after bid opening.

Since TC's bid can no longer receive the Non-small business preference, Caltrans must apply the non-small business preference to Hazard's bid resulting in a comparison total of \$518,375.90. This new comparison total makes Hazard the new apparent low bidder.

Hazard hereby protests any award to TC based upon the facts stated above and asks that Caltrans award this 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

Attachments
cc: Bid File

Low Bidder

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CERTIFIED DVBE SUMMARY
DES-OE-0102.5 (REV 3/2008)

RCVD

DISTRICT-COUNTY-ROUTE: 11 - SD - 15-M20.3/M20.9
CONTRACT NO.: 11-416104
TOTAL BID: \$ 530,882
BID OPENING DATE: _____
BIDDER'S NAME: TC CONSTRUCTION CO. INC.
DVBE PRIME CONTRACTOR CERTIFICATION ¹ _____

| Bid Item Number | Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE ² | For Caltrans Only | DVBE (Name, Telephone No., and Certification No.) | \$ Amount | |
|---|--|-------------------|--|-----------------------------|-----------------------|
| 3 | Traffic Control | | Carolina Traffic 619-434-9200 Cert No. 1259580 | \$26,250 | |
| 1,9 | Lead Compliance Plan Prepare WPCP | | Keegan Solutions 951-898-6000 Cert No. 155854 | \$ 2,150 | |
| Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form. | | | | Total Claimed Participation | \$ 28,400 - 5.35 % |

1. DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).

2. If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.

Submit to:

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


Signature of Bidder 4.24.14
Date

619-448-4560
(Area Code) Telephone Number

AUSTIN CAMERON
Contact Person (Type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-8410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-88, Sacramento, CA 95814.

Low Bidder

05-05-2014 10:44 P01:44 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CERTIFIED SMALL BUSINESS LISTING FOR THE NON-SMALL BUSINESS PREFERENCE
DES-OE-0102.8 (REV 2/2011)

BIDDER NAME TC CONSTRUCTION CO. INC.

CONTRACT NO. 11-416104

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AUSTIN CAMERON
Person to Contact (Please Type or Print)
619-448-4560
(Area Code) Telephone Number

Total Claimed Participation \$ 158,961
30 % of Contract

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-89, Sacramento, CA 95814.



Low Bidder Fax

To: John C. McMillan **From:** Arthur Hernandez, Jr.

Fax: 1-916-227-6282 **Pages:** 3

Phone: 1-919-227-6280 **Date:** 4-26-14

Re: Contract No. 11-416104 **CC:**

Urgent For Review Please Comment Please Reply Please Recycle

Comments:

Certified Small Business Listing
Certified DVBE Summary

