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December 23, 2015

Caltrans Office Engineer  
**Attn: John C. McMillan**  
PO Box 168041  
Sacramento, CA 95816-8041

**RE Caltrans Contract No. 12-OH2254**  
**Follow-up HLE letter dated 12.17.15 the Non Responsive Bid Submitted by Smart Tech**

Dear Mr. McMillan,

High Light Electric, Inc. ("HLE") has reviewed the correspondence regarding Smart Tech's (apparent Low Bidder) non-responsive bid letter and Caltrans letter dated 12.18.15 recession letter. Caltrans has deemed their bid non responsive for failure to submit bidder security prior to bid opening and then Caltrans rescinded the non-responsive bid. HLE supports Caltrans' initial assessment of Smart Tech's bid as non-responsive, and again encourages Caltrans to enforce the strict compliance with all bidder requirements to ensure an equal playing field. HLE requests that Caltrans award the contract to HLE as the lowest responsive bidder.

In addition to the HLE's letter dated 12.17.15, HLE supplements our protest by directing Caltrans attention to "Frequently Asked Questions" in the Caltrans website that set expectations to Contractors for Caltrans Projects out for bid (See Attachment A): <http://www.dot.ca.gov/hq/esc/oe/faq.html#q19>

It states "My bid was delivered late to the Department due to the overnight mail service. Will the Department accept the bid since the lateness was caused by the overnight mail company? No. Bids are to be received by the Department by no later than the time set forth in the "Notice to Bidders". Proposals received after the deadline will be returned unopened" (emphasis added). The Bond is considered as part of the bid.

HLE understands the risk of time sensitive materials in using a 3<sup>rd</sup> party mail service or its own staff to deliver a time sensitive bids. HLE as well as other contractors have had its fair share of mechanical breakdowns or other equally justifiable issues in untimely deliver bids in the past which have led for the bid not being accepted by Caltrans and now Caltrans is making an unfair exception here with Smart tech in Caltrans letter dated 12.18.15. We ask for your reconsideration on this issue.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Erwin Mendoza".

Erwin Mendoza

**President**

Enclosed – Attachment 'A' (1ea page)

No. An alleged patent ambiguity of the plans, specifications or estimate must be asked before bid opening. The bidder is encouraged to submit a bidder's inquiry prior to bid opening. Further, altering the bid form or specifying conditions in the bid will render the bid nonresponsive.

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**My bid was delivered late to the Department due to the overnight mail service. Will the Department accept the bid since the lateness was caused by the overnight mail company?**

No. Bids are to be received by the Department by no later than the time set forth in the "Notice to Bidders". Proposals received after the deadline will be returned unopened.

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**My bid was delivered to the Department before bid opening and timestamps at the bid counter. For some reason, my bid was not read. Did the Department lose my bid?**

Occasionally, bid envelopes received prior to the bid deadline are left in the mail room, delivered to the wrong Caltrans office or are simply overlooked. Upon discovery of such bids, the Department verifies the bid envelope was unopened and received prior to the deadline. Department staff then contact the bidder and the apparent three low bidders to arrange a telephonic bid opening. The bid is opened and read over the telephone with the bidders listening. The Department verifies the bid totals and posts a corrected bid summary on the internet and updates the bid results telephone hotline. The Department apologizes for any inconvenience caused by the misplaced bid.

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**My contractor's license is under suspension by the Contractor's State Licensing Board (CSLB). May I bid on the contract and if so, will the contract be awarded to my company if it is the lowest responsive bidder?**

The contractor may bid the contract if the license is under suspension; however, the contract will not be awarded to the bidder if the suspension is in effect during the bid evaluation period. The Department will confirm the suspension with the CSLB then alert the bidder. At its discretion, the Department may provide the bidder a reasonable amount of time to work with CSLB to remove the suspension. Otherwise, the contract will be awarded to the next lowest responsive bidder.

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**I am the low bidder, when should I submit my insurance policies? What happens if I don't?**

If you are the low bidder and are awarded the contract, thus making you the "successful bidder", submit your insurance policies together with the signed contract form, contract bonds etc. as specified in Section 3-1.09 of the contracts special provisions. If you fail to submit on the specified deadline, the award of the contract to you will be rescinded.

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**If I make a mistake on my bid, how can I retract my bid? When can I notify the Department?**

After opening of the bid proposals, you can request for a relief of bid. The request should be received by the Department within 5 business days after opening of the proposals (bid opening).

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# Facsimile Cover Sheet

**To:** 9162276282@rcfax.com  
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**Phone:**  
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**From:** Erwin Mendoza  
**Company:** High Light Electric Inc.  
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**Date:** 12/23/2015

**Pages including this  
cover page:** 3

**Comments:**

Caltrans Bid Protest 12-0H2254 Bid Date 12.3.15