



General Engineering Contractors – Paving, Chip Seal, Oil Spreading

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1150 Willow Pass Road • Pittsburg, CA 94565 • TELEPHONE (925) 427-5266 FAX (925) 427-1216

STATE CONTRACTORS LICENSE # 776848

May 14, 2013

Via U.S. Mail and Facsimile (916) 227-6282

Mr. John C. McMillan  
MSC 43  
Office Engineer Contracts Award Branch Chief  
California Department of Transportation  
1727 30<sup>th</sup> Street  
Sacramento, Ca 95816-7005

Attn: John C. McMillan, Deputy Division Chief

Re: 01-Lak-29-11.9/19.1 Cold Plane & Surface HMA Surfacing (Bonded Wear Course)  
Caltrans Contract No. 01-491214  
WFC Bid No. P13069

Subject: Response to Bid Protest by Chester Bross and Synergy Project Management

Dear Mr. McMillan:

Please consider this letter to be a response to the protests by Synergy Project Management Inc. (SPMI) the second low bidder and Chester Bross Construction (CBC), the third low bidder in connection with Contract No. 01-491214. Nothing submitted in SPMI and CBC protest alters the fact that Windsor Fuel Co. is the low and responsive bidder and materially fails to prove that WFC failed comply with Caltrans' bidding requirements. Synergy is second low bidder and Chester Bross Construction remains third bidder.

Both SPMI and CBC contend that Windsor Fuel Company did not comply with the "Subcontractors List" by listing Global Environmental Services, Wells Sweeping or Mike Arthur Water Truck Service as Subcontractors on form DES-OE-0102.2 at the time of bid or within 24 hours after bid opening. We did in fact include Global Environmental Service, Wells Sweeping and Mike Arthur Water Truck Service as part of our DVBE Participation Summary and our Certified Small Business Listing for the Non-Small Business Preference.

The fact of the matter is that Global Environmental Service, Wells Sweeping and Mike Arthur Water Truck Service are not Subcontractors and do not possess a California Contractors license. These firms only offer hourly services for specialized operated and non operated equipment or provide



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compliance documents such as Water Pollution Control Programs. None of these Services or Programs require a Contractor License or a Sub Contract Agreement.

The definition of a Subcontractor is, "One who takes a portion of a contract from the principal contractor or from another subcontractor. Subcontractors sign contracts with the general contractor, that typically incorporate the agreement between the general contractor and the owner. A subcontractor who fails to complete work on time or whose work is not acceptable under the general contract may be required to pay damages if the project is delayed because of these problems. When an individual or a company is involved in a large-scale project, a contractor is often hired to see that the work is done. The contractor, however, rarely does all the work. The work that remains is performed by subcontractors, who are under contract to the contractor, who is usually designated the general or prime contractor. Subcontractors may, in turn, hire their own subcontractors to do part of the work that they have contracted to perform." Global Environmental Service, Wells Sweeping and Mike Arthur Water Truck Service are not required to meet any of the above stated criteria.

Windsor Fuel Company is the low and responsible bidder. We have properly complied with the bidding requirements set forth in the bid documents as we listed our Subcontractors as required. We achieved the DVBE goal as stated with the correct percentage of 3% utilizing current active DVBE and Certified Small Business Firms achieving the required 25% Non Small Business Preference.

In conclusion, Windsor Fuel Co. should be awarded the subject project because we are the lowest responsive bidder. We request for an open hearing in the event it is the intention of Caltrans to award the project to anyone other than Windsor Fuel Co.

If I can be of further assistance, do not hesitate to contact me.

Sincerely,



MARC ARMSTRONG  
Estimator/Project Manager

cc: A. Robert Rosin, Esq., Leonidou and Rosin  
Mr. Mike Fain; Mr. Karl Meyers, Job Folder  
Via facsimile: Synergy Project Management, Inc. Chester Cross Construction