



John McMillan, Deputy Division Chief  
State of California Department of Transportation  
Division of Engineering Services,  
Office of Engineer, MS 43  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-8041

Subject: Bid Protest

Re: Contract No. 04-041004  
Bids Opened: September 9, 2014  
Bid Protest of C.C. Myers, Inc.

Dear Mr. McMillan:

Myers and Sons /ACC, A Joint Venture (MSC/ACC) was the second monetary bidder on the above referenced project. With this letter MSC/ACC hereby protests the bid submitted by the lowest monetary bidder, C.C. Myers, Inc. (CCM), for failing to comply with "The Subletting and Subcontracting Fair Practices Act" and for failing to comply with the mandatory requirements for completion of the Subcontractor List on this contract.

The Subcontractor List provided by CCM the day after the original bid was changed from the original Subcontract List. CCM improperly changed the scope of work of its original subcontractors and revised the subcontractor list post-bid. Caltrans has repeatedly and consistently found changes to the subcontractor list post-bid to be grounds for finding a bid to be non-responsive. Because of this, CCM's bid must be rejected and considered nonresponsive, making them ineligible for award of this Contract.

**I: CCM Improperly Changed the Subcontractor Listing post-bid:**

CCM included the word "Partial" in the description of work for Bayline Cutting and Coring (BCC) for bid item 26 "Place Polyester Concrete Overlay" at bid time and then listed them for 100% of the same item on the 24 hour submittal. This change from the bid day submittal to the 24 hour submittal is a clear change in the scope of work of the subcontractor. This creates an unfair bid advantage for CCM by allowing them to re-negotiate pricing with their subcontractors post-bid to potentially increase their involvement. (See Attachments 1-3: Bid day and 24 hour sub lists, and attached spreadsheet detailing the changes.)

In a letter dated May 10<sup>th</sup> 2013 for contract 03-4M4904 (Attachment 4), Caltrans found the bid of J McLoughlin non-responsive for the exact same situation:

*"On the original submitted Subcontractor List, J McLoughlin identified Central Striping Service (CSS) as only performing work described as Stripe (partial). However, on the 24 hour submission of the*



*subcontractor list submitted on April 18, 2013, J Mccloughlin identified the percentage of subcontracted work as 100 percent for Bid Items 1,9,12 and 31-37 to be performed by CSS. The change from partial to 100% constitutes an improper change to the subcontractor list form." (emphasis added)*

## **II: CCM Revised the Subcontractor list post-bid**

CCM revised the description of work to be performed by a subcontractor from the bid day subcontractor list to the 24-hour subcontractor list. At bid time, CCM listed BCC for bid item 28 with the description of portion of work as "Furnish Bridge Deck Treatment." They clearly crossed out the word "Partial" (and initialed it) following this item. With the 24 hour submittal, the description of work for this item was changed to include the word "Partial". Even more confusingly, they listed BCC for 100% of this item in spite of the word "Partial" in the description.

Caltrans has also repeatedly found bids to be non-responsive for revisions to the 24 bid form beyond bid item number and percentage, noting that "No other revisions the form are permitted". This includes changing "Furnish Bridge Deck Treatment" at bid time to "Furnish Bridge Deck Treatment (Partial)" 24 hours later. For example, in a letter dated June 10, 2013 (Attachment 5), Caltrans found the bid of Toro Enterprises non-responsive for both adding a bid item and changing the description of work post-bid:

*"...the change in the description of work in Column 4 constitutes an improper change to the Subcontractor List form and is in violation of the subcontractor listing laws as well as the Subcontractor List instructions."*

In this case, the change of description to include "partial" is significant since it allows CCM to reduce the scope of work allocated to the sub-contractor and gain an unfair bid advantage.

## **III: CCM reduced the percentage of work to subcontractors post-bid**

On the day of the bid, CCM's listed Roadway Engineering, Inc. (REI) for "Electrical and Related" and Safety Striping Service, Inc. (SSSI) for "Remove Striping, Striping, Pavement Markers and Related" on the Subcontract List with no mention of "Partial". On the 24 hour submittal, CCM listed both REI and SSSI as doing only a portion of their scope of work. (See Attachment 3 spreadsheet for breakdown and detail).

Per REI's and SSSI's quote (Attachment 6), they are to perform 100% of all the items quoted. CCM is clearly taking work away post bid to create a competitive advantage. Again, this represents a change to the subcontractor listing post-bid that should not be allowed, as it provides the appearance of an unfair bid practice.

## **Conclusion:**

The purpose of the Subletting and Subcontracting Fair Practices Act is to establish a level and ethical playing field for public works bidding. By doing so, corrupt practices such as bid shopping and bid peddling can be reduced or eliminated. This is a matter of both law and perception and both must be



maintained consistently to ensure the public's trust in the system. Even if bid shopping has not taken place, the appearance of an unfair bid advantage cannot be tolerated or it undermines the foundation of the system.

Caltrans must follow the law, but must also follow consistent and established precedent with respect to the review and acceptance of contracts. In this case, clear precedence exists (Caltrans own rejections of previous bids for the same faults) to find the post-bid changes made by CCM ground for a non-responsive finding.

In conclusion, CCM's bid should be found to be non-responsive for improper post-bid changes to the subcontractor list. Based upon the Caltrans' consistent practice and in accordance with the applicable law, CCM's bid must be rejected and considered non-responsive and the above referenced contract should be awarded to the next lowest responsive bidder.

A handwritten signature in black ink, appearing to read "Jeff Foerste", is written over a series of horizontal lines.

Jeff Foerste  
President  
American Civil Constructors

# Attachment 1 (Bid day)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-DE-0102.2B (REV 5/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the piece of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number <sup>(*)</sup>	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
Anrak Corp., Sacramento, CA	256390	Remove Epoxy AC, Remove Concrete Deck Surface and Related		
<del>N/A</del> <sup>(DE)</sup>		<del>Prep Concrete Deck, Prep Steel Deck Surface and Related</del> (partial)		

\* Not required on contracts with Federal Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-OE-0102.28 (REV 5/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the piece of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number <sup>(*)</sup>	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
WCW, Inc., Perris, CA	991606	Heat Straighten Steel Parapet and Related		
Safety Striping Svc. Inc. Goshen, Ct.	308669	Remove Striping, Striping, Pavement Markers and Related		

\* Not required on contracts with Federal-Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-OE-0102.2B (REV 6/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (A)	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Roadway Engineering with Eeres, CA.	845536	Electrical and Related		
<del>NA</del> DE		Painting and Related DE		

<sup>A</sup> Not required on contracts with Federal Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-06-0102.2B (REV 6/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (A)	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
Western Traffic Supply Inc Pleasanton, CA	974188	Traffic Control System (partial)		
Western Traffic Supply Inc Pleasanton, CA	974188	Construction Area Signs and Related		

<sup>A</sup> Not required on contracts with Federal Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-05-0102.28 (REV 8/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (a)	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Bay Line Cottigard Berkeley, CA	809660	Prep concrete Deck Surface, treat bridge deck, Furnish Bridge Deck Treatment Matl, <del>(Partial)</del> Prep steel Deck Surface (Partial)		
Western Traffic Supply Inc Pleasanton, CA	974188	Portable, changeable message signs and related.		

<sup>a</sup> Not required on contracts with Federal Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-05-0102.2B (REV 5/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number <sup>(*)</sup>	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Bayline Cutting and Curing Berkeley, CA	809660	Place polyester concrete overlay (Partial)		
Bayline Cutting and Curing Berkeley, CA	809660	Place polyester concrete overlay zinc (Partial)		

\* Not required on contracts with Federal Aid.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-OE-0102.2B (REV 6/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number <sup>(*)</sup>	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
Bayline Cutting and Berkley, CA	coring 8091660	rapid set concrete (Patch) (partial)		
Bayline Cutting and Berkley, CA	coring 8091660	Remove unsound concrete (partial)		

\* Not required on contracts with Federal-Aid.

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JT

Received  
Sep. 10. 2014 11:55AM

Sep 10 2014 11:55am

No. 0344 P 2

# Attachment 2 (24 hour)

**STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-06-0102.2B (REV 6/2011)**Bidding Firm C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq. the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work of labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number #	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Anrak Corp., Sacramento, CA	256390	Remove Epoxy AC, Remove Concrete Deck Surface and Related	17	80.00%
			18	84.35%
WCW, Inc., Perris, CA	991606	Heat Straighten Steel Parapet and Related	40	96.00%
Safety Striping Service, Inc., Goshen, CA	308669	Remove Striping, Striping, Pavement Markers and Related	12	94.59%
			16	90.91%
			45	93.55%
			46	85.00%
			47	91.67%
			48	95.93%
			49	95.45%
			50	95.45%
Roadway Engineering Works, Ceres, CA	845536	Electrical and Related	51	81.29%
			52	85.64%
			53	95.81%
			54	68.67%
			55	46.55%
			56	71.05%
			57	75.00%
			58	79.41%
			59	100.00%
			60	73.47%

\* Not required on contracts with Federal AID

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**SUBCONTRACTOR LIST**

DES-05-0102,2B (REV 6/2014)

Bidding Firm: C.C. Myers, Inc.

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number <sup>1</sup>	Description of Portion of Work	Bid Item Numbers	Percentage of Bid Item Subcontracted
Western Traffic Supply, Inc., Pleasanton, CA	974188	Traffic Control System (partial)	5	33.40%
		Construction Area Signs and Related, Portable Changeable Message Signs and Related	6	40.50%
			7	98.09%
Bay Line Cutting & Coring, Berkeley, CA	809660	Prep Concrete Deck Surface,	14	50.00%
		Treat Bridge Deck, Furnish	22	90.91%
		Bridge Deck Treatment Material	23	50.00%
		(partial), Prep Steel Deck Surface	24	70.58%
		(partial), Place Polyester Concrete	26	100.00%
		Overlay (partial), Place Polyester	27	100.00%
		Concrete Overlay Zinc (partial),	28	100.00%
		Rapid Set Concrete (patch) (partial), Remove Unsound Concrete (partial)	29	90.32%

<sup>1</sup> Not required on contracts with Federal Aid

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# Attachment 3

Bid Item	Bid Day			24 Hours After		Change Notes
	Sub Name	Description			%	
5	Western Traffic Supply	Construction Area Signs	X		40.5	Did not say partial, listed less than 100%
6	Western Traffic Supply	Traffic Control System	Partial	Partial	33.4	
7	Western Traffic Supply	PCMS	X		99.09	Did not say partial, listed less than 100%
12	Safety Striping Svc	Remove Striping	X		94.59	Did not say partial, listed less than 100%
14	Bay Line Cutting	Rapid Set Concrete ( Patch )	Partial	Partial	50	
16	Safety Striping Svc	Remove Striping	X		90.91	Did not say partial, listed less than 100%
17	Anrak	Remove Epoxy AC	X		80	Did not say partial, listed less than 100%
18	Anrak	Remove Concrete Deck Surface	X		84.35	Did not say partial, listed less than 100%
22	Bay Line Cutting	Place PPC Overlay Zinc	Partial	Partial	90.91	
23	Bay Line Cutting	Remove Unsound Concrete	Partial	Partial	50	
24	Bay Line Cutting	Prep Concrete Deck Surface	X		70.59	Did not say partial, listed less than 100%
26	Bay Line Cutting	Place Polyester Concrete Overlay	Partial	Partial	100	Indicated Partial, then listed for 100%
27	Bay Line Cutting	Treat Bridge Deck			100	
28	Bay Line Cutting	F Bridge Deck Treatment Matl		Partial	100	Changed Desc. to Partial, then listed for 100%
29	Bay Line Cutting	Prep Steel Deck Surface	Partial	Partial	90.32	
40	WCW, Inc.	Heat Straighten Steel Parapet	X		96	Did not say partial, listed less than 100%
45	Safety Striping Svc	Striping	X		93.55	Did not say partial, listed less than 100%
46	Safety Striping Svc	Striping	X		85	Did not say partial, listed less than 100%
47	Safety Striping Svc	Striping	X		91.67	Did not say partial, listed less than 100%
48	Safety Striping Svc	Pavement Markers	X		95.93	Did not say partial, listed less than 100%
49	Safety Striping Svc	Pavement Markers	X		95.45	Did not say partial, listed less than 100%
50	Safety Striping Svc	Pavement Markers	X		95.45	Did not say partial, listed less than 100%
51	Roadway Engineering	Electrical	X		61.29	Did not say partial, listed less than 100%
52	Roadway Engineering	Electrical	X		85.64	Did not say partial, listed less than 100%
53	Roadway Engineering	Electrical	X		95.81	Did not say partial, listed less than 100%
54	Roadway Engineering	Electrical	X		88.67	Did not say partial, listed less than 100%
55	Roadway Engineering	Electrical	X		46.55	Did not say partial, listed less than 100%
56	Roadway Engineering	Electrical	X		71.05	Did not say partial, listed less than 100%
57	Roadway Engineering	Electrical	X		75	Did not say partial, listed less than 100%
58	Roadway Engineering	Electrical	X		79.41	Did not say partial, listed less than 100%
59	Roadway Engineering	Electrical			100	
60	Roadway Engineering	Electrical	X		73.47	Did not say partial, listed less than 100%

X = Partial was not listed which implies Subcontractor will complete 100% of the work.

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 30<sup>th</sup> 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!

# Attachment 4

May 10, 2013

Facsimile: (909) 944-3112

Joe McLoughlin, President  
 J. McLoughlin Engineering Co., Inc.  
 10641 Fulton Court  
 Rancho Cucamonga, CA 91730

03-4M4904  
 03-Yol, Sut-45,80,113-VAR  
 B.O. 04/17/2013

Dear Mr. McLoughlin:

The Department of Transportation (Caltrans) received a bid submitted by J. McLoughlin Engineering Co., Inc. (J. McLoughlin) for Contract No. 03-4M4904 on April 17, 2013. By this letter, Caltrans notifies J. McLoughlin that its bid is nonresponsive because the percentage of bid items subcontracted in column 3 is not consistent with the description of subcontracted work in column 4.

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 the original submitted Subcontractor List, J. McLoughlin identified Central Striping Service Inc., (CSS) as only performing work described as Stripe (partial). However, on the 24-hour submission of the Subcontractor List submitted on April 18, 2013, J. McLoughlin identified the percentage of subcontracted work as 100 percent for Bid Items 1, 9, 12, and 31-37 to be performed by CSS. The change from partial to 100 percent constitutes an improper change to the Subcontractor List form.

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

Your attention is directed to Section 3-1.02 of the Amendments to the 2006 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 Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

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

Attachments

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-OE-01022 (REV 0/2011)

Bidder Name: J. McLaughlin Engineering Co

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8282 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Central Striping Service Inc. Rancho Cordova, Ca	1	100 %	Stripe (partial)
	9	100 %	
	12	100 %	
	31-37	100 %	
	58	3 %	
ABSL Construction Sacramento, Ca	21	67 %	Remove chip Seal (partial)
	24	68 %	Grind Bridge Deck (partial)
Martin General Engineering Rancho Cordova, Ca	13	49 %	Remove AC (partial)
	14	40 %	Cold Plane AC (partial)
	22	44 %	Hot Mix Asphalt
	23	80 %	[Related] (partial)
Carolina Traffic Control, Inc National City	4	40 %	Traffic Control (partial)

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Contract No. 03-4M4904

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-05-0102.2 (REV 3/2011)

Bidder Name: J. McLoughlin Eng. Co., Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6262 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Central Striping Serv. Rancho Cordova, CA			Stripe (partial)
ABSL const Sacramento, CA			<del>Remove AC JM.</del> Remove chip seal } (partial) Grind bridge deck
<del>Martin Bros. const</del> <del>Sacramento, CA JM.</del> Martin general engineering Rancho Cordova CA			<del>cold plane Ac</del> <del>Hot mix Asphalt (partial)</del> [Related] <del>Remove AC (partial)</del>
Carolina traffic control national city, CA			Traffic control (partial)

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-88, Sacramento, CA 95814.

Contract No. 03-4M4904

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 30<sup>th</sup> 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!

# Attachment 5

June 10, 2013

Facsimile: (805) 483-2001

Sean Castillo  
 Toro Enterprises Inc.  
 P.O. Box 6285  
 Oxnard, CA 93031

07-1W0804  
 07-Ven-23-20.9/24.2  
 B.O. 04/25/13

Dear Mr. Castillo:

The Department of Transportation (Caltrans) received a bid submitted by Toro Enterprises Inc. (Toro) for Contract No. 07-1W0804 on April 25, 2013. By this letter, Caltrans notifies Toro that its bid is nonresponsive because of a revision made to the Subcontractor List.

The bid items in column 2 of the Subcontractor List form are not consistent with the description of subcontracted work in column 4 of 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."

On the original submitted Subcontractor List Toro identified Traffic Loops Crackfilling Inc. (Traffic Loops) as only performing item 37 (Inductive Loop Detector). However, on the 24-hour submission Toro added bid items 36 (Maintaining Existing Traffic Management System Elements during Construction) and item 37 (Inductive Loop Detector). Toro also changed the description of the work in Column 4. The addition of item 36 combined with the change in description of work in Column 4 constitutes an improper change to the Subcontractor List form and is in violation of the subcontractor listing laws as well as the Subcontractor List instructions.

In addition, Caltrans received a response provided by Toro on May 29, 2013, addressing the protest submitted by Granite Construction Company. Caltrans did not review the response since the bid submitted by Toro was found nonresponsive.

Based on the above, Caltrans will proceed to award the 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.

Received  
04/26/2013 11:25 Toro Enterprises

Apr 26 2013 11:15am  
(FAX)

P.002/004

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-06-0102.2 (REV 3/2011)

Bidder Name: Toro Enterprises, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4 100 et seq.). 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Maneri Traffic Control 47423 Rainbow Canyon Temecula, CA 92592	2	100%	Construction Area Signs
Traffic Loops Crackfilling Inc. 946 S. Emerald Street Anaheim, CA 92804	36, 37	100%	Inductive Loop Detectors Maintain Existing TMS Elements
Austin Enterprise PO Box 81926 Bakersfield, CA 93380	27 28	100% 100%	Seal Pavement Joints Seal Isolation Joints
Chrip Company 2280 South Lilac Ave. Bloomington, CA 92510	1 7-10 29-35	100% 100% 100%	Lead Compliance Plan Remove thermo markings Striping, pavement marking
Pavement Recycling Systems 10240 San Savaine Way Jurupa Valley, CA 91752	15 16 17	67% 100% 100%	Cold In-Place Recycling Cement Additive Emulsified Recycling Agent
Asphalt Dike Construction Inc. (APCO) PO Box 790 Coshon, CA 93227	23 24	26% 26%	Place Asphalt Concrete Dike Place Asphalt Concrete Dike

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## STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

## SUBCONTRACTOR LIST

DES-05-0102.2 (REV 3/2011)

Bidder Name: Toro Enterprises Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8282 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Mancini Traffic Control 47432 Rainbow Cyn Tulare, CA 92592	3,	100%	Construction Area Signs
Chrisp Company 2280 South Lilac Ave Rialto, CA 92316	1, 7-10, 29-35		Striping
Traffic Loops Cracking Inc 746 S. Emerald St Anaheim, CA 72804	37		Traffic Loops
Austin Enterprise PO Box 81926 Bakersfield, CA 93380	29, 28		Joint Sealant
Pavement Recycling Systems 16240 San Serrano Way Jurupa Valley, CA 91752	15, 14, 17		Cold-in-place recycling
Asphalt Dike Const (APCO) PO Box 790 Erosken, CA 93227	23, 24		Asphalt Dike

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**ATTACHMENT 6**

Page 1. of 2.

ROADWAY ENGINEERING WORKS INCORPORATED

3442 6TH STREET.

CERES, CA 95307

License: 845536 Expires: 8/31/2016.

Phone (209) 541-0920

Fax (209) 541-1065

ESTIMATING

Phone (707) 928-0147

Fax (707) 928-0137

**"A" "B" AND C-10 LICENSE CLASSIFICATIONS****Project: RESTORE ORTHOTROPIC DECK AND ELECTRICAL UPGRADES****Location: SANTA MATEO AND ALAMEDA COUNTIES****Bid Date: 9/9/2014****Contract: 04-041004****REVISION-01**

Bid Item	Description	Qty.	Unit Price	U/M	Total
51	MAINTAIN "ETMS" ELEMENTS DURING CONST.	1		LS	\$4,597.00
52	12 KV SYSTEM	1		LS	\$2,141,000.00
53	SUBSTATION NO. 1	1		LS	\$297,000.00
54	SUBSTATION NO. 2	1		LS	\$266,000.00
55	SUBSTATION NO. 3	1		LS	\$135,000.00
56	SUBSTATION NO. 4	1		LS	\$135,000.00
57	SUBSTATION NO. 5	1		LS	\$135,000.00
58	SUBSTATION NO. 6	1		LS	\$135,000.00
59	SUBSTATION NO. 7	1		LS	\$232,000.00
60	SUBSTATION NO. 8	1		LS	\$220,400.00
63	MOBILIZATION	1		LS	\$399,000.00

# 140 Working days will be required to complete our scope of work.

**BID TOTAL****\$4,099,997.00**

RANDY CELL # 209-221-9979

**Roadway Engineering Works, Inc.**

2. of 2.

**Bid Date:** 9/9/2014**Contract:** 04-041004**Addendums Noted:** 2.**Includes:**

- 1) Bonds. (120
- 2) Permits ( by Others)
- 3) Traffic Control (CC to provide as requested).
- 4) Demo and repair of block wall for access at substation 3.

**Clarifications:**

- 1) Monthly progress payments paid pursuant to Public Contract Code 10262 & 10262.5 and Section 7108.5 of the business Professions Code
- 2) This proposal is to be attached and/or included to any subcontract agreement by amendment
- 3) All plan revisions, changes and correspondence will be delivered to Roadway Engineering Works, Inc. main office
- 4) Standard insurance coverages apply.
- 5) Quote includes providing Barges required for substation access for electrical installations.



09-09-'14 11:28 FROM- Safety Striping Svc +559-651-1118

T-148 P0001/0002 F-612



**SAFETY STRIPING SERVICE, INC.**

PO Box 1020  
6868 Avenue 305  
Goshen, CA 93227  
TEL: (559) 651-1022  
FAX: (559) 651-1118  
Contractors License #308669



Signatory Contractors, Laborer's International, Northern & Southern California

**SUBCONTRACTOR QUOTATION**

PROJECT: 04-041004 Resurface Orthotropic Decks  
San Mateo & Alameda Counties

DATE: September 8, 2014

QUOTE#: 14-070

Item #	Description	Unit	Est Qty	Unit \$	Total \$
1	Lead Compliance Plan (Hazardous)(Partial)*	LS	1	\$1,600.000	\$1,600.00
6	Traffic Control System (Partial)**	LS	1	\$41,000.000	\$41,000.00
12	Remove Yellow Thermoplastic Traffic Stripe (Hazardous Waste)	LF	71,400	\$0.360	\$24,990.00
16	Remove Thermoplastic Traffic Stripe	LF	214,000	\$0.200	\$42,800.00
46	4" Thermoplastic Traffic Stripe	LF	143,000	\$0.290	\$41,470.00
46	4" Thermoplastic Traffic Stripe (Broken 36-12)	LF	143,000	\$0.170	\$24,310.00
47	Paint Traffic Stripe (2/Coat)	LF	214,000	\$0.110	\$23,540.00
48	Pavement Marker (Non-Reflective)	EA	12,000	\$1.650	\$19,800.00
49	Pavement Marker (Type G One-Way Clear Retroreflective)	EA	2,980	\$2.100	\$6,258.00
50	Pavement Marker (Type H One-Way Yellow Retroreflective)	EA	2,980	\$2.100	\$6,258.00
61	Mobilization (Partial)**	EA	2	\$4,500.000	\$8,000.00

\* Partial items are for our scope of work only

\*\* Traffic Control does not include advanced notice, detours or CMS boards. Simple Lane Closures anticipated for our scope of work.

\*\* Mobilization for this job is to be charged per each. See page 2 for mobilization terms.

**Safety Striping Service is a certified California DVBE/ SBE (#14354)**

SEE PAGE 2 FOR CONDITIONS.

**TOTAL \$240,928.00**

09-09-14 11:28 FROM- Safety Striping Svc +559-651-1118

T-148 P0002/0002 F-612

PROJECT: 04-041004

DATE: 09/09/2014

TERMS AND CONDITIONS

- Safety Striping Service, Inc is signatory to the Laborer's of Northern and Southern California.
- Safety Striping Service, Inc is a certified California DVBE (Certification # 14354).
- Safety Striping Service, Inc. requires IMMEDIATE notification upon being listed by the apparent low bidder, for purposes of scheduling and material management.
- Safety Striping Service, Inc. requires a written subcontract, purchase order or signed quote prior to mobilization for any work, or placing the order for job specific materials (i.e. signs, lead plans, etc).
- Safety Striping Service, Inc requires an invitation to pre-job meetings.
- Bonds are not included in this quote. If bonds are required, call for rate.
- Mobilizations will be charged per each mobilization, defined as a period of consecutive eight hour days of continuous work, not including weekends or holidays. Any deviances from this, other than those initiated by Safety Striping Service, Inc, will be considered additional move-ins and billed at \$4,500.00 each.
- Referencing is included in this quote. Our referencing is LINEAR ONLY, identifying the limits of and changes in the striping details present prior to obliteration. Contractor is required to comply with Section 39-6.01 of the 2006 Standard Specifications (39-1.11 of the 2010 S.S.). Field Layout due to the misplacement of paving seams is at the prime Contractor's expense (Extra Work Force Account). Mobilization for referencing will not be considered a move-in.
- The unit price for removal includes the installation of tabs, but only on striping obliterated by Safety Striping. All tab maintenance is the responsibility of the Contractor. Any required temporary signage (i.e. "No Passing," etc) as well as any temporary edgeline delineation (i.e. cones, delineators, etc.) is the responsibility of the Contractor.
- Prices for various Yellow Removal items include all requirements of section 10-1.14 of the special provisions.
- Contractor must provide a secured (6' chain link fence) dumpsite at the project location for material awaiting testing results. When Safety Striping leaves the job-site, all potentially hazardous waste becomes the responsibility of the contractor and/or Caltrans. Safety Striping will arrange the proper testing and disposal, but will not be liable for the improper care of the waste after we have left the job-site.
- Contractor to provide a location on-site for dumping non-hazardous grindings. All non-hazardous grindings become the responsibility of the Contractor. Contractor to provide an adequate water source for our removal equipment.
- This quote includes removal of tabs placed on center and lane lines only (excludes any locations where delineators can be used). This applies only to tabs properly placed at approximately 24' on center.
- Message Boards are not included in this quote.
- A minimum of fifteen (15) working days advance notice is required for referencing and on each mobilization.
- The bid includes traffic control for our work. We require exclusive access to the roadway without obstacles and the ability to begin work upon arrival at the job-site. Delays caused by conflicts in scheduling are the responsibility of the Contractor and are subject to standby time computed as labor in section 9-1.03A of the Standard Specifications.
- This quotation is valid for a period of sixty (60) calendar days from the date of issue and may be extended at the sole discretion of Safety Striping Service, Inc.
- Safety Striping carries \$1 million in GL (\$2 million GA); \$1 million in Auto; \$1 million in Work Comp.

These terms and conditions shall supersede any bid request, advertisement or subcontract language. Should this quotation be accepted, the entire quotation (both pages) must be included in the subcontract agreement or purchase order.

Submitted by:  Billy De Witt, Estimator



Date: 09 / 09 / 2014

I have read and understand the "Terms and Conditions" stated above and agree that this Quotation (including said terms and conditions) will become a part of the agreement between our company and Safety Striping Service, Inc.

General Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name (Print): \_\_\_\_\_ Date: \_\_\_\_\_



LETTER OF TRANSMITTAL

3701 Mallard Drive
Benicia, CA 94510-1246
(707) 746-8028 Fax (707) 747-0593

Date: 09/18/14 Job:
Attention: Office Engineer
RE: Bid Protest for Caltrans Contract
No. 04-041004, Bid Date 09/09/14
(25) Total Pages, Including Cover

TO: California Department of Transportation
Office Engineer MS 43
1727 30th St.
Sacramento, CA 95816
Phone: 916-227-6282

WE ARE SENDING YOU [X] Attached [ ] Under separate cover via
[ ] Shop Drawings [ ] Prints [ ] Plans [ ] Samples [ ] Specifications
[ ] Copy of letter [ ] Change Order

Table with 4 columns: Copies, Date, No., Description

THESE ARE TRANSMITTED as checked below:

[ ] For approval [ ] Approved as submitted [ ] Resubmit \_\_\_ copies for approval
[ ] For your use [ ] Approved as noted [ ] Submit \_\_\_ copies for distribution
[ ] As requested [ ] Returned for corrections [ ] Return \_\_\_ corrected prints
[ ] For review and comment [ ]
[ ] FOR BIDS DUE \_\_\_ 20 \_\_\_ [ ] PRINTS RETURNED AFTER LOAN TO US

REMARKS: Please find the attached bid protest. Should you have any questions or require a digital copy of the protest, please contact me.

Jennifer Rozenkowski
Direct: 707-742-6443

COPY TO: File

SIGNED: Jennifer Rozenkowski, Estimating Admin.