



April 24, 2013

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 - 8300

Fax (916) 227 - 6282

Attn: Mr. John C. McMillan, Deputy Division Chief

Re: 04-3E2904 FOR CONSTRUCTION OF STATE HIGHWAY IN SANTA CLARA COUNTY IN AND NEAR SANTA CLARA, SUNNYVALE AND MOUNTAIN VIEW FROM LAWRENCE EXPRESSWAY TO 0.4 MILE WEST OF ROUTE 82/85 SEPARATION.

Subject: *Formal Protest of Bid Submitted by MCK Service Inc.*

Dear Mr. McMillan,

Please accept this letter as formal protest to the bid submitted by MCK Services Inc. ("MCK") regarding Contract 04-3E2904. Graniterock Company dba Pavex Construction Division ("Pavex") is currently the Second Lowest bidder. MCK's bid is nonresponsive and must be rejected based on the Departments bidding requirements.

Per the State of California Subcontractor List, form DES-OE-0102.2 (REV 3/2011) it states "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 - 4 within the time specified will result in a nonresponsive bid."

On the bid day submission MCK failed to list Mercado Trucking for bid items 9, 10 and 11 (all partial) in Columns #1 and #4 on the Subcontractor List. MCK again failed to list Mercado Trucking for bid items 9, 10 and 11 (all partial) on the Subcontractor List required within 24 hours of bid submission with additional Columns #2 and #3 to be completed.

120 Granite Rock Way, San Jose

(408)574-1400 / (408)365-8349 Fax



On the 4th day following the bid submission MCK, per the requirements of the Department of Transportation, submitted its CALTRANS BIDDER – DBE – COMMITMENT form DES-OE-0102.10C (NEW 06/2012). On that form, MCK listed Mercado Trucking for bid items 9, 10 and 11 (all partial) for \$30,000.00 in value of trucking. A review of MCK's DBE Good Faith documentation clearly shows Mercado Trucking was solicited for a bid by Fax/Email, and the attached Transaction Log shows "Success" in transmission on 4/12/2013, less than 4 days before the bid, however no quote from Mercado Trucking to MCK is included in the 4 day DBE submission.

Pavex contends that MCK has violated the Subcontractor List required on bid day and within 24 hours of the bid by not listing Mercado Trucking. Additionally, by allowing MCK to list Mercado Trucking on the 4 day CALTRANS BIDDER – DBE – COMMITMENT it allows MCK a "second bite at the apple" by now making the 3% DBE goal even though there is no evidence showing that a bid was received from Mercado Trucking on bid day. Had MCK intended on utilizing Mercado Trucking on bid day, there is no reason that MCK would not have listed Mercado Trucking on the bid day Subcontractor List and or supplied a quote received on bid day from Mercado Trucking.

Based on the facts presented herein, Pavex hereby requests that the bid submitted by MCK be found nonresponsive and that the Department uphold and validate Pavex's bid protest and award the contract to Pavex which submitted the lowest responsive and responsible bid for Contract 04-3E2904.

Thank you for your attention to this matter and should you need to contact me please find my contact numbers and email address below.

Respectfully,
Graniterock Company dba Pavex Construction Division

Paul L. Cianciarulo
Chief Estimator
Phone 408-574-1423
Fax 408-365-9548
Email pcianciarulo@graniterock.com

PAVEX CONSTRUCTION
Division of Graniterock Company
Phone (408) 574-1400
Fax (408) 365-9548

Fax

To: Mr. John C. McMillan **From:** Paul Cianciarulo

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

Phone: 916-227-8300 **Date:**

Re: Bid Protest - 04-3E2804 **CC:**

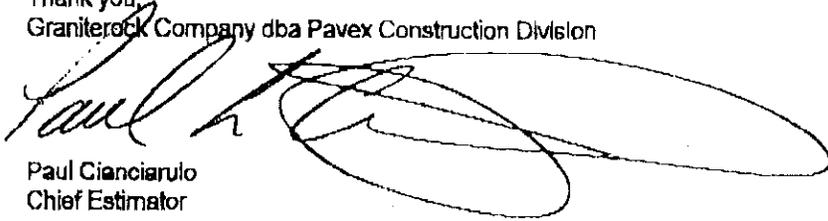
Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

• **Comments:**

Mr. McMillan,

Please see Signed copy of our bid protest for Contract #04-3E2804,

Thank you,
Graniterock Company dba Pavex Construction Division


Paul Cianciarulo
Chief Estimator