CONDON - JOHNSON
& ASSOCIATES, INC.
CONTRACTORS AND ENGINEERS

Sent via fax 916-227-6282, email www.dot.ca.goz/hq/esc/oe, & US Certified Mail

3/20/14

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816
Phone (916) 227-6299
Fax (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Re: Contract # 04-4S6204

Subject: CJA Bid Extension Request

Dear Mulissa Smith,

Per Section 3-1.04 of the Standard Specifications, this letter is to formally request an extension of the award period for the above referenced project, while the issue of Cal Trans' nonresponsive finding of CJA's bid is being resolved.

Sincerely,

Gerard J. Condon
President
Condon – Johnson & Associates, Inc.

CONDON - JOHNSON
& ASSOCIATES, INC.
CONTRACTORS AND ENGINEERS

3/19/2014

John C. McMillan
Deputy Division Chief
Department of Transportation
1727 30th Street
Sacramento, CA 95816
RE: Contract # 04-4S6204

Dear Mr. McMillan,

Condon-Johnson & Associates, Inc. is in receipt of your letter dated March 17, 2014 which notifies Condon-Johnson that its bid is nonresponsive. The reason provided for the bid being deemed nonresponsive is based on non- compliance with a requirement of the DBE commitment form which states: "Names of the first tier DBE subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the Subcontractor List". CJA does not believe it has violated the requirement of the DBE Commitment Form because while ABSL is a DBE, they did not bid the work as a Subcontractor. Per the requirement quoted, the DBE form must be consistent with the Subcontractor list "where applicable" (ie the DBE must be a Subcontractor).

ABSL was not listed on the Subcontractor Listing form because ABSL bid the project on an operated equipment rental basis. They did not bid the project per Unit Price or Lump Sum Bid Items, or per plans and specifications. Attached, please find ABSL's quotation, which clearly demonstrates they bid the project with a menu of operated equipment rental rates.

Caltrans also considers equipment rental with or without an operator as not being a subcontractor. This is indicated in the Standard Specifications Section 5-1.13 "Subcontracting", where Caltrans states: "perform work equaling at least 30% of the value of the original total bid with your employees and with equipment you own *or rent, with or without operators*".

In addition, Caltrans has awarded work to a General Contractor in the past which was bid exactly the way Condon-Johnson listed the work on this bid. On Contract Number: 04-3E6304 (bid 4/03/2013), RGW listed ABSL on the DBE commitment form and did not list them on the Subcontractor List, and was subsequently awarded the work.

Based on the above information, CJA requests that the nonresponsive finding against it be withdrawn, and that it be awarded the contract for this project.

Accordingly, per Section 3-1.04 of the Standard Specifications, CJA requests its bid be extended while this issue is resolved. CJA will forward its request to the Office Engineer as required.

Gerard J. Condon
President
Condon – Johnson & Associates, Inc.

Enclosure: ABSL Construction Bid Quotation AC Grinding (Two (2) Page Total)
Contract 04-3E6304 Award Search Results (Three (3) Page Total)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

CALTRANS BIDDER - DBE - COMMITMENT

DES-OE-0102.10C (NEW 05/2012)

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 04-3E6304

BID AMOUNT: $ $1,560,018.00

BID OPENING DATE: April 3, 2013

BIDDER'S NAME: RGW Construction, Inc.

DBE GOAL FROM CONTRACT, %: 8%

DBE PRIME CONTRACTOR CERTIFICATION[1]:

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED[2]	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE[3]
10	AC Grinding Machine Rental		ABSL Construction 29393 Pacific Street Hayward, CA 94544 510-727-0900 Certification No. 5270	$ 27,000

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective items(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Total Claimed Participation $ _____ %

Signature of Bidder

Date: 4-5-13

(Area Code) Tel. No.: 925-806-2400

Person to Contact: Karim Massoud (Please Type or Print)

Submit to:

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95816-7006

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.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

CALTRANS BIDDER - DBE - COMMITMENT

DES-OE-0102.10C (NEW 08/2012)

Low Bidder

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO: 04-3E6304

BID AMOUNT: $ $1,560,018.00

BID OPENING DATE: April 3, 2013

BIDDER'S NAME: RGW Construction, Inc.

DBE GOAL FROM CONTRACT, %: 8%

DBE PRIME CONTRACTOR CERTIFICATION[1]:

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED[2]	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - Include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE[3]
10, 12, 13	Water Trucks		Tri Valley Water Trucks 1452 N. Vasco Road, Ste 358 Livermore, CA 94551 510-390-4030 Certification No. 39938	$ 7,776

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work on the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Total Claimed Participation: $ ____ %

Signature of Bidder

Date: 4-5-13

(Area Code) Tel. No.: 925-606-2400

Person to Contact: Karim Massoud

(Please Print)

Submit to:

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

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04-09-13P12:37 RCVD

1 of 5

R G W Bro

ABSL Construction

29393 Pacific Street, Hayward, CA 94544
TE: (510) 727-0900 Fax: (510) 727-0912

Contractors License A 621781
SMBE & DBE Certification CT-005270

Bid Quotation
AC Grinding

Project Name:	**CA/DOT Hot Mix Asphalt (Open Graded) Overlay**
Project Number:	**04-3E6304**
Bid Date:	**04/03/2013**
Location:	**San Lorenzo, Alameda County, CA**

BID

Daily Minimum Charge ***$3700.00***
This price is for an 80" inch cold planer machine, ***Wirtgen W 2000***. Up to 12 inches depth. No additional for night work. $500.00 per hour overtime. $500.00 additional for Saturday work. $1000.00 additional for Sunday work.

Daily Minimum Charge ***$3900.00***

This price is for a high horsepower 80" inch cold planer machine, ***Wirtgen W 210***. Up to 12 inches depth. No additional for night work. $550.00 per hour overtime. $500.00 additional for Saturday work. $1000.00 additional for Sunday work.

One back-up grinder is included if minimum 2 grinders are used per shift.

Mobilization ***Included***

0403-03

RECEIVED: 2013-04-03 11:44:00 (GMT -08:00)

ABSL Construction

29393 Pacific Street, Hayward, CA 94544
TE: (510) 727-0900 Fax: (510) 727-0912

Contractors License A 621781
SMBE & DBE Certification CT-005270

Portland cement concrete grinding is excluded from this quotation unless specifically quoted.

Removal of Asphalt Concrete over gutter damages can't be guaranteed by ABSL.

ABSL Construction will cold plane as close as possible to existing manholes, water valves, and other obstructions in cutting plane. Handwork and placing temporary asphalt tapers around these objects or at pavement edge for safety requirements are excluded.

Contractor to post streets with "No Parking" signs prior to subcontractor's phase of work, provide water or water meter and provide traffic control during cold planing operation.

All areas to be ground shall be clearly marked by the general or the job inspector.

A minimum of two weeks notice is requested prior to move in.

Anything not specifically included in this price should be considered excluded.

ABSL Construction does not accept backcharges due to machine breakdown during operation above the machine's daily rental fee.

Back charges will only be based on the time the machine is broken and will reflect the cost of the equipment for that time. All others costs due to the equipment breakdown will not be charged to ABSL Construction.

All teeth over one complete set will be charge to the contractor.

ABSL does not accept force account rates or retention.

This quotation will be part of our contract or purchase order agreement and is valid till a new change of the rates.

If you have any questions regarding the above quote please call me at (510) 727-0900 or fax at (510) 727-0912.

Sincerely,

Daryl Vorne

1026-02-SF

ABSL Construction

29334 Pacific Street, Hayward, CA 94544
TE: (510) 727-0900 Fax: (510) 727-0912

Contractors License A 621781
SMBE & DBE Certification CT-005270

GRINDING JOB AGREEMENT

The prices set forth above are based on the following assumptions and are subject to change under conditions set forth below.

1) A minimum daily rate is any part of an 8 hour day and overtime will be charged for work done other than a regular weekday shift.
2) Modification to the work may require a change in the quote.
3) Unless otherwise indicated the unit prices are based on ABSL performing all the work included on the proposal. If ABSL does not receive a contract for all the work, the unit prices are subject to adjustment.
4) The unit prices are based on the estimated quantities in the bid proposal. If the quantity of the item changes by 25% or more the unit price is subject to equitable adjustment.
5) All teeth over one complete set will be charge to the contractor.
6) Prices are good for 30 days from the date of this proposal, after that date the prices are subject to adjustment.
7) In the event there is an increase in the cost of fuel of more than $0.50 per gallon during the performance of this contract, ABSL will be entitled to a $75.00 per day fuel surcharge. The base cost of fuel shall be established on the bid date of the contract by reference to the Weekly Retail On-Highway Diesel Prices for California, as published by the U.S. Department of Energy on its web site at www.tonto.eia.doe.gov/oog/info/wohdp/diesel.asp.
8) If ABSL cannot proceed with its work as scheduled due to others, standby time will be charged at the following rate: $425.00 per hour.
9) Downtime for equipment becoming stuck in wet or muddy sub-grade conditions will be charged at a stand-by time rate until removed. Additional equipment required for removal will be charged at a time and materials basis.
10) This proposal to be attached and made part of any and all resulting contracts.
11) The above price does not include permits, fees, bonding, state or local taxes.
12) This is a proposal only for the purpose of establishing a price for work as outlined. In the event ABSL is the low bidder a formal contract or PO suitable to both parties shall be prepared and fully executed.
13) Repairs of damage to ABSL equipment due to unmarked or buried obstructions; i.e. valve boxes, manholes covers, concrete, steel fence posts, steel pipe or excessive depth asphalt will be billed at time and material for repairs.
14) Backcharges to ABSL must be communicated by contractor in a written notice within 72 hours from the time of occurrence for backcharges.
15) Unless otherwise agreed to in writing prior to start of work, payment is due and payable within 30 days of billing, and no retention to be withheld on payments.
16) All utilities within mill grade are to be located and marked by customer. It is the sole responsibility of the lessee or renter (customer) to follow the requirements of the regional notification center law pursuant to Article 2 (Commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the California Government Code. Customer assumes sole responsibility for, and all subsequent liabilities coincident with following the requirements of the regional notification center law. Furthermore, customer agrees to be responsible for all damage to both utilities themselves and to our company's equipment by reason of ABSL equipment encountering unmarked utilities.
17) Items not specifically included are considered to be excluded. If you have any questions please call.

Thank You,

Daryl Vorne

0402-02

RECEIVED: 2013-04-03 11:44:41 (GMT -08:00)