



SULLY-MILLER CONTRACTING CO.

License 747812A

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March 14, 2016

Department of Transportation
Division of Engineering Services
P.O. Box 168041, MS-43
Sacramento, CA 95816-8041
Fax (916) 227-6282

Attention Office Engineer:

The purpose of this letter is to protest the award of Contract 08-1F5204 to Calmex Engineering, Inc. (Calmex) for not obtaining the DBE goal as represented in Calmex's DBE Commitment Submittal, and to request Caltrans consider Sully-Miller Contracting Company for the award of Contract 08-1F5204.

The basis of this protest is that Calmex did not meet the DBE goal for the project as represented and did not submit a Good Faith Effort per the specifications. As a result, Calmex is not eligible for the award of Contract 08-1F5204. Calmex's DBE Commitment submittal contained multiple errors. The most notable error that was found is the total dollar amount of liquid asphalt (PG 64-16) claimed by the bidder to be needed for this project is overstated. It is clear that a factor of 7.5% was applied to the total tons of RHMA (Item 10) to determine the amount of liquid asphalt or oil (PG 64-16) that will be purchased for the project through its DBE supplier, LMS Transport, the percentage used is overstated and cannot be justified.

Sully-Miller suspects that the Bidder used the total percentage of Asphalt Rubber Binder in their liquid asphalt purchase calculation. Asphalt Rubber Binder is a combination of oil and rubber. In accordance with the Specifications, the combined asphalt binder and asphalt modifier must be 80.0 +/- 2.0 percent by weight of asphalt rubber binder. Based on this requirement, it appears that the amount of liquid asphalt (PG 64-16) is overstated by 20%. An appropriate percentage for the amount of (PG 64-16) that will be used in the RHMA for Contract 08-1F5204 is 6%, which is exactly 80% of 7.5% (reference attached Section 39-3.02B and 39-3.02C of the Specifications for Contract 08-1F5204). In addition, the sales tax associated with the liquid asphalt sale should not be used towards DBE participation. In this case, sales tax would normally be paid to the manufacturer by Calmex. If the amount of PG 64-16 that is required for the project is corrected by 20% (2,445 Tons less 20%=1,956 Tons), and tax is removed, a reduction in DBE participation in the amount of \$106,034.76, is required for Item 10 alone. With

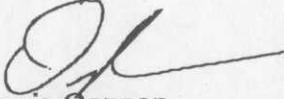
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this correction, Calmex's revised DBE Participation total would be \$531,580.73, which is only 9.94% of \$5,346,393.60, and clearly less than the required 11% DBE goal.

In conclusion, Calmex did not obtain the DBE goal and did not submit any Good Faith Documentation in the time frame required. In order not to obtain an unfair advantage, the State should deem Calmex's bid for Contract 08-1F5204 as non-responsive, and consider Sully-Miller Contracting Company for award.

If you have any questions or comments, please contact our office at 714/578-9600.

Respectfully,



Dennis Gansen
Vice President/General Manager
Sully-Miller Contracting Company

39-3.02B Rubberized Hot Mix Asphalt-Gap Graded Mix Design

For RHMA-G, the mix design must comply with the requirements shown in the following table:

RHMA-G Mix Design Requirements

Quality characteristic	Test method	Requirement
Air voids content (%)	AASHTO T 269 ^a	$N_{design} = 4.0$
Gyrations compaction (no. of gyrations)	AASHTO T 312	$N_{design} = 50-150^b$
Voids in mineral aggregate (min, %)	SP-2 Asphalt Mixture Volumetrics ^c	18.0-23.0
Dust proportion	SP-2 Asphalt Mixture Volumetrics	Report only
Hamburg wheel track (min number of passes at 0.5-inch rut depth) Binder grade: PG 58 PG 64 PG 70	AASHTO T 324 (Modified) ^d	15,000 20,000 25,000
Hamburg wheel track (min number of passes at the inflection point) Binder grade: PG 58 PG 64 PG 70	AASHTO T 324 (Modified) ^d	10,000 10,000 12,500
Moisture susceptibility, dry strength (min, psi)	AASHTO T 283 ^d	100
Moisture susceptibility, wet strength (min, psi)	AASHTO T 283 ^{d, e}	70

^aCalculate the air voids content of each specimen using AASHTO T 275, Method A, to determine bulk specific gravity and AASHTO T 209, Method A, to determine theoretical maximum specific gravity. Under AASHTO T 209 use a digital manometer and pycnometer when performing AASHTO T 209.

^bSuperpave gyratory compactor ram pressure may be increased to a maximum of 825kPa, and specimens may be held at a constant height for a maximum of 90 minutes.

^cMeasure bulk specific gravity using AASHTO T 275, Method A.

^dTest plant produced RHMA.

^eFreeze thaw required.

Determine the amount of asphalt rubber binder to be mixed with the aggregate for RHMA-G as follows:

1. Base the calculations on the average of 3 briquettes produced at each asphalt rubber binder content.
2. Plot asphalt rubber binder content versus average air voids content for each set of 3 specimens and connect adjacent points with a best-fit curve.
3. Calculate voids in mineral aggregate for each specimen, average each set, and plot the average versus asphalt rubber binder content.
4. Calculate the dust proportion and plot versus asphalt rubber binder content.
5. From the curve plotted, select the theoretical asphalt rubber binder content at 4 percent air voids.
6. At the selected asphalt rubber binder content, calculate dust proportion.
7. Record the asphalt rubber binder content in the Contractor Hot Mix Asphalt Design Data Form as the OBC.

The OBC must not fall below 7.5 percent by total weight of the mix.

Laboratory mixing and compaction must comply with AASHTO R 35, except the mixing temperature of the aggregate must be between 300 and 325 degrees F. The mixing temperature of the asphalt rubber binder must be between 375 and 425 degrees F. The compaction temperature of the combined mixture must be between 290 and 320 degrees F.

39-3.02C Asphalt Rubber Binder

39-3.02C(1) General

Asphalt rubber binder must be a combination of:

1. Asphalt binder
2. Asphalt modifier
3. CRM

The combined asphalt binder and asphalt modifier must be 80.0 ± 2.0 percent by weight of the asphalt rubber binder.

39-3.02C(2) Asphalt Modifier

Asphalt modifier must be a resinous, high flash point, and aromatic hydrocarbon, and must comply with the requirements shown in the following table:

Asphalt Modifier for Asphalt Rubber Binder

Quality characteristic	Test method	Requirement
Viscosity at 100 °C ($m^2/s \times 10^{-6}$)	ASTM D445	$X \pm 3^a$
Flash point (min, °C)	ASTM D92	207
Molecular Analysis		
Asphaltenes (max, % by mass)	ASTM D2007	0.1
Aromatics (min, % by mass)	ASTM D2007	55

^aThe symbol "X" is the proposed asphalt modifier viscosity. "X" must be between 19 and 36. A change in "X" requires a new asphalt rubber binder design.

Asphalt modifier must be from 2.0 to 6.0 percent by weight of the asphalt binder in the asphalt rubber binder.

39-3.02C(3) Crumb Rubber Modifier

10-50-16

CRM must be a ground or granulated combination of scrap tire crumb rubber and high natural scrap tire crumb rubber. CRM must be 75.0 ± 2.0 percent scrap tire crumb rubber and 25.0 ± 2.0 percent high natural scrap tire crumb rubber by total weight of CRM. Scrap tire crumb rubber and high natural scrap tire crumb rubber must be derived from waste tires described in Pub Res Code § 42703.

The CRM must comply with the requirements shown in the following table:

Crumb Rubber Modifier for Asphalt Rubber Binder

Quality characteristic	Test method	Requirement
Scrap tire crumb rubber gradation (% passing No. 8 sieve)	California Test 385	100
High natural crumb rubber gradation (% passing No. 10 sieve)	California Test 385	100
Wire in CRM (max, %)	California Test 385	0.01
Fabric in CRM (max, %)	California Test 385	0.05
CRM particle length (max, in) ^a	—	3/16
CRM specific gravity	California Test 208	1.1-1.2
Natural rubber content in high natural crumb rubber (%)	ASTM D297	40.0-48.0

^aTest at mix design and for certificate of compliance.

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To: Office Engineer
 State of California, Dept. of Transportation Division of
 Engineering Services

From: Dennis Gansen, Vice President- Operations
 Sully Miller Contracting

Fax: 916-227-6282

Pages: 1 of 5

Phone:

Date: 3/14/16

Bid Protest of Caltrans Contract Number 08-1F5204

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle

Attached please find the following bid protest for Caltrans contract number 08-1F5204.

Respectfully,
Dennis Gansen
