



HAZARD CONSTRUCTION COMPANY | Lic. #750542 A/C31  
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December 19, 2024

California Department of Transportation  
 Division of Engineering Services  
 Office Engineer, MS 43  
 1727 30<sup>th</sup> Street  
 Sacramento, CA 95816  
 Attn: April Perez-Hollins, Office Chief

Re: Bid Protest of Apparent Second Bidder  
 Contract No. 11-430364

Dear Ms. Perez-Hollins:

Hazard Construction Engr LLC ("Hazard") has reviewed the bid forms and after-bid forms as submitted for Contract No. 11-430364, with a bid date of December 4, 2024, by the apparent second low bidder, Nationwide Contracting Services Inc. ("Nationwide") and ask that Caltrans find Nationwide non-responsive for the multiple listing inconsistencies present in the Subcontractor List, Small Business Enterprise Commitment form ("SBE Commitment") and Small Business Enterprise Confirmation form ("SBE Confirmation"), Certified DVBE Summary form and Certified Small Business Enterprise Listing for the Non-Small Business Preference form ("NSBP").

**First Cause for Bid Rejection – SBE Confirmation and Commitment**

Payco Specialties, Inc. ("Payco") is listed for Bid Item #1 on the SBE Confirmation, however Payco is not listed for Bid Item #1 in the SBE Commitment. Additionally, according to the Subcontractor Listing provided at bid time, Payco is performing 30% of Bid Item #1 and therefore the SBE Confirmation/Commitment should describe the portion of the item to be performed or furnished.

Traffic Loops Crackfilling, Inc. ("TLC") is listed for Bid Item #79 on the SBE Confirmation, however TLC is not listed for Bid Item #79 in the SBE Commitment.

Lastly, the amounts listed on the SBE Confirmation for Performance Pipeline Technologies Inc ("PPT"), TLC, Ace Fence Company ("Ace"), and Diversified Landscape Co. ("Diversified") are inconsistent with the Subcontractor Listing provided at bid time are grossly overstated as shown below.

BID ITEM #79 (\$325,000)	CONTRACTOR	SUB LISTING	SUB LISTING TOTAL	SLBE COMMITMENT
#79	PERFORMANCE PIPELINE	6.00%	\$ 19,500.00	\$ 28,000.00
#79	TLC	0.70%	\$ 136.50	\$ 20,000.00
#79	ACE FENCE	0.50%	\$ 1,625.00	\$ 5,250.00
#79	DIVERSIFIED	1.00%	\$ 3,050.00	\$ 33,300.00

The SBE Commitment/Confirmation forms are very clear that the "items of work must be consistent with the Subcontractor List" and "if 100% of an item is not to be performed or furnished by the small business, describe the portion of the item to be performed or furnished".

These inconsistencies between bid day subcontractor list and bid item percentages has allowed Nationwide to expand multiple subcontractor scopes and to even pick and choose if Nationwide self-performs or subcontracts work out to a cheaper subcontract after the bid which is a competitive advantage not afforded to any of the other bidders and cannot be allowed.

### Second Cause for Bid Rejection – DVBE Summary

KEE Solutions, Inc (“KEE”) is listed on the Certified DVBE Summary for performing Bid Items #1 and #12-16 at 100% since there is no exact portion of the item to be performed provided in the description, for a total amount of \$30,651.

The Certified DVBE Summary is not consistent with the Subcontractor List provided at bid time as it shows KEE performing 70% of Bid Item #1 while the Certified DVBE Summary lists it as 100% since there is not description of what portion of the work is being performed. Furthermore, the Subcontractor List shows Payco performing 30% of Bid Item #1 and the SBE Confirmation shows Payco performing 100% of the item. Lastly, to make things even more convoluted and confusing as to who is performing what bid items of work, Nationwide is listed on the NSBP for performing 100% of Bid Item #1. Essentially, Nationwide has listed three different contractors to perform one scope of work and claiming bits and pieces for different goals and incentives along the way.

Finally, the amounts listed on the Certified DVBE Summary for KEE are inconsistent with the Subcontractor Listing provided at bid time and have significantly reduced the scope of work afforded to KEE. KEE is only listed for \$30,651 on the DVBE Summary compared to \$289,500 on the Subcontractor Listing provided at bid time.

BID ITEM	DESCRIPTION	BID ITEM TOTAL	SUB LISTING %	SUB LISTING TOTAL
1	LEAD COMPLIANCE PLAN	\$ 5,000.00	70.00%	\$ 3,500.00
12	JOB SITE MANAGEMENT	\$240,000.00	100.00%	\$ 240,000.00
13	STORMWATER POLLUTION PREVENTION PLAN	\$ 20,000.00	100.00%	\$ 20,000.00
14	RAIN EVENT ACTION PLAN	\$ 2,000.00	100.00%	\$ 2,000.00
15	STORM WATER SAMPLING AND ANALYSIS DAY	\$ 20,000.00	100.00%	\$ 20,000.00
16	STORM WATER ANNUAL REPORT	\$ 4,000.00	100.00%	\$ 4,000.00
			<b>TOTAL</b>	<b>\$ 289,500.00</b>

The Certified DVBE Summary requires that the “Names of the first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List submitted with the bid” and “If 100% of an item is not performed or supplied by the DVBE’s, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.” Nationwide has failed to describe the “exact part” of the bid items to be performed and has created inconsistencies and discrepancies as to which contractor is performing which bid item or portion of a bid item.

These inconsistencies between bid day subcontractor list and bid item percentages has allowed Nationwide to reduce a listed subcontractor’s scope after the bid and purported to self-perform that work at a cheaper price which is a competitive advantage not afforded to any of the other bidders and cannot be allowed.

### Third Cause for Bid Rejection – Certified Small Business Listing for the Non-Small Business Preference (NSBP)

Nationwide submitted the NSBP listing itself and five other subcontractors for a total of \$5,177,666 in Non-Small Business Preference incentive. Based on this listing they have further confused and provided further inconsistencies as to which contractor or subcontractor is providing what work and how much.

Once again, Nationwide was listed to perform Bid Item #1 however Payco and KEE are both listed to perform this work in inconsistent amounts on the Subcontractor List provided at bid time, the SBE Commitment/Confirmation, and the DVBE Summary. Nationwide is also listed for performing Bid Item #9 however First Vanguard is listed on the DVBE Summary to perform this work. It appears that all four Caltrans documents represent a different dollar amount of work allocated to each contractor and subcontractor respectively.

The total claimed amount for Nationwide’s bid items is listed at \$3,799,144.50 however that claimed dollar amount is around fifty percent more than the actual dollar amount for those items in the bid schedule, \$2,512,800 as illustrated below.

BID ITEM	DESCRIPTION	TOTAL
1	LEAD COMPLIANCE PLAN	\$ 5,000.00
2	LEVEL 2 CRITICAL PATH METHOD SCHEDULE	\$ 40,000.00
3	TIME-RELATED OVERHEAD (WDAY)	\$ 333,000.00
4	DISPUTE RESOLUTION ADVISOR ON-SITE MEETING	\$ 10,000.00
5	HOURLY OFF-SITE DISPUTE-RESOLUTION-ADVISOR-RELATED	\$ 2,000.00
6	CONSTRUCTION AREA SIGNS	\$ 51,500.00
8	STATIONARY IMPACT ATTENUATOR VEHICLE	\$ 171,000.00
9	TEMPORARY BARRIER SYSTEM	\$ 283,500.00
10	PORTABLE CHANGEABLE MESSAGE SIGN (EA)	\$ 40,000.00
11	TEMPORARY CRASH CUSHION TL-3	\$ 335,350.00
20	TEMPORARY CONSTRUCTION ENTRANCE	\$ 220,000.00
21	STREET SWEEPING	\$ 240,000.00
22	TEMPORARY CONCRETE WASHOUT	\$ 40,000.00
23	TEMPORARY WATER MANAGEMENT SYSTEM	\$ 40,000.00
24	MANAGE SOLID WASTE GENERATED BY THE PUBLIC	\$ 36,000.00
25	TREATED WOOD WASTE	\$ 5,800.00
29	CLEARING AND GRUBBING (LS)	\$ 60,000.00
30	ROADWAY EXCAVATION	\$ 40,000.00
34	CLASS 2 AGGREGATE BASE (CY)	\$ 25,000.00
35	ASPHALTIC EMULSION (FOG SEAL COAT)	\$ 2,450.00
36	HOT MIX ASPHALT (TYPE A)	\$ 247,500.00
37	SHOULDER RUMBLE STRIP (HMA,GROUND-IN INDENTATIONS)	\$ 4,500.00
38	CENTERLINE RUMBLE STRIP (HMA GROUND-IN INDENTATION)	\$ 25,500.00
44	REMOVE ASPHALT CONCRETE DIKE	\$ 8,600.00
45	(F) - STRUCTURAL CONCRETE, HEADWALL	\$ 188,000.00
46	STRESS REDUCING SLAB-8 locations	\$ 12,600.00
50	REMOVE HEADWALL	\$ 45,500.00
	<b>TOTAL</b>	<b>\$ 2,512,800.00</b>

To add even more confusion all this, Nationwide had requested the *Small Business Preference* at bid time and did not request the *Non-Small Business Preference* and therefore should not even have turned in the NSBP form as an after-bid submittal.

Nationwide shall be found non-responsive for attempting to secure an additional postbid incentive by submitting an incorrect after-bid submittal that clearly creates additional inconsistencies in all their submitted bid documents and further leads to more ambiguity and confusion as to who is actually performing which scopes of work. Creating ambiguity and later being able to decide which subcontractor to give the scope of work to is a HUGE competitive bid advantage that was not allowed or enjoyed by any other bidders.

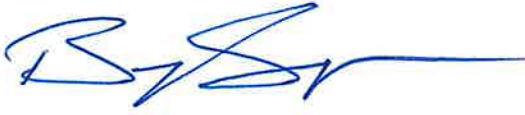
#### **Conclusion**

In conclusion Caltrans is required to follow its own rules when, as here, it has a ministerial duty to do so. (Pozar v. Cal. Dept. Of Transportation (1983) 145 Cal.App.3d 269 [holding that Caltrans was required to follow its published procedure for resolving discrepancies in bid figures].

Due to the myriad of reasons stated above Hazard hereby protests any award to Nationwide and asks that Nationwide's bid be deemed as non-responsive and award the contract to Hazard, the true apparent low bidder, having met all of the requirements.

If you have any questions regarding any of these matters or need further clarification, please do not hesitate to call myself at the main office. Thank you for your attention to this matter.

Sincerely,  
HAZARD CONSTRUCTION ENGR LLC

A handwritten signature in blue ink, appearing to read 'Bryan Seeger', with a long horizontal flourish extending to the right.

Bryan Seeger  
Vice President - Estimating

Attachments  
cc: Bid File