

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



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November 14, 2008

Board of Supervisors 330 Fair Lane Placerville, CA 95667

Agenda Title:

DOT 11/18/08 U.S. 50 HOV Lanes, Phase 1 - EL Dorado Hills to Bass

Lake Grade Project (JN 53110) Continue Award of Contract; Item #

50, Legistar File ID # 08-1388

Meeting Date: November 18, 2008

Dear Members of the Board:

At the November 4, 2008 regular Board meeting, the Board voted to continue the award of the U.S. 50 HOV Lanes, Phase 1 - El Dorado Hills to Bass Lake Grade Project (JN 53110) (Project) to November 18, 2008. The purpose of the continuation was to review the bid protests and to make a determination of the protests and a determination regarding an award.

For the record, the Department of Transportation (Department) has enclosed copies of the following related to the bid and bid protests:

Attachment 1 - Department staff evaluation of the bid and bid protests

Attachment 2 - Attachment 2 contains copies of NCI's and Granite's Bid Proposals, which are the subjects of the protests. The original Bid Proposals from the following four bidders received on October 30, 2008 are lodged with the Board Clerk:

- Nehemiah Construction, Inc. (NCI)
- Granite Construction Company (Granite)
- A. Teichert & Son, Inc. dba Teichert Construction (Teichert)
- De Silva Gates Construction, L.P. (DSG)

Attachment 3 - Department's October 30, 2008 fax containing the bid results

Attachment 4 - Bidder's List of Subcontractors (DBE and non-DBE) Part II forms received on October 31, 2008 from each of the four bidders

Attachment 5 - October 31, 2008 letter from NCI explaining proposal submittal regarding Bidder's List of Subcontractors (DBE and non-DBE) Part I and Part II forms

Attachment 6 - November 3, 2008 Bid Protest letter from McInerney & Dillon attorneys for Granite

Attachment 7 - November 7, 2008 Bid Protest from McDonough Holland & Allen attorneys for Teichert

Attachment 8 - November 7, 2008 letter from Donald K. Struckmann attorney for NCI responding to Granite's Bid Protest

Attachment 9 - November 10, 2008 letter from McInerney & Dillon attorneys for Granite responding to Teichert's Bid Protest

Attachment 10 - November 12, 2008 letter from McDonough Holland & Allen attorneys for Teichert responding to NCI attorney's letter of November 7 and Granite's attorney's letter of November 10, 2008.

Attachment 11 – November 10, 2008 letter from Donald K. Struckmann attorney for NCI responding to Teichert's Bid Protest

Attachment 12 – November 13, 2008 email from Bob O'Connor with McDonough Holland & Allen attorneys for Teichert regarding Nehemiah's November 10, 2008 letter.

Attachment 13 – November 14, 2008 letter from Donald K. Struckmann attorney for NCI responding to Teichert's November 12, 2008 letter.

Recommendations:

The Department recommends the following actions by the Board: 1) conduct a hearing to hear testimony from all interested parties; 2) close the public hearing; and, 3) allow staff to make a recommendation for award before the November 18, 2008 Board meeting is adjourned.

In the event that the Board elects to award the Project, the Department requests the following additional recommended actions be approved:

- 4. Authorize the Chairman to sign the contract with Contractor to whom the Board awards the contract, subject to review and approval of the final Contract Documents by County Counsel and Risk Management;
- 5. Authorize the Director of Transportation to sign an Escrow Agreement, if requested by the Contractor and in accordance with Public Contract Code Section 22300, for the purpose of holding Contract retention funds;
- 6. Authorize the Director of Transportation to execute Contract Change Orders with an individual value up to \$150,000, provided the cumulative total of all Contract Change Orders is within the contingency budget established for the Project;
- 7. Authorize the Chairman to sign Contract Change Orders in the total amount of \$2,689,000 for the County's share of certain supplemental Items of Work; (4/5 vote required per PCC 20137) and,

8. Authorize the Director of Transportation to sign the Dispute Review Board Agreement with the Contractor, the County, and the Dispute Review Board Members for the purpose of assisting in the resolution of disputes and/or potential claims.

FUNDING: Funding will be from the Corridor Mobility Improvement Account; Congestion Mitigation and Air Quality Program; Regional Surface Transportation Program; and, Traffic Impact Mitigation Fee Programs.

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BUDGET SUMMARY:		
Total Estimated Cost		\$ 42,608,000
Funding		
Budgeted	\$ 15,756,000	
New Funding	\$	
Savings	\$	
Other *	\$ 26,852,000	
Total Funding Available	\$ 42,608,000	
Change To Net County Cost		\$0.00

^{*}Balance to be included in future Fiscal Year budgets

Fiscal Impact/Change to Net County Cost:

The construction phase of the Project (\$42,608,000) is funded through state bond funds of \$20,000,000 from the Corridor Mobility Improvement Account (CMIA); federal grant funds of \$1,700,000 from the Congestion Mitigation and Air Quality (CMAQ) Program; federal grant funds of \$6,294,483 from the Regional Surface Transportation Program (RSTP); and \$14,613,517 from the 2004 General Plan Highway 50 Traffic Impact Mitigation (TIM) and the Interim Highway 50 Variable TIM Fee Programs. The CMIA funds were allocated to the Project by the California Transportation Commission (CTC) at its September 24/25, 2008 meeting.

All bids were within the budget, the Engineer's Estimate and available funding.

There is no Net County Cost associated with this agenda item.

Reason for Recommendation:

The Department is requesting a hearing to allow the Board to hear the testimony regarding the award.

Award and Sign Construction Contract with Lowest, Responsive, Responsible Bidder: Section 3-1.04 "Escrow Bid Documents" (EBDs) of the Contract Documents requires that the successful bidder submit with the signed Contract, bonds, and insurance, all documentation used to prepare its bid in a lockable container. Department staff and a representative of the successful bidder who is familiar with the preparation of the bid will examine the EBDs to ensure that all of the requested items are included. Failure of the successful bidder to furnish the EBDs in accordance with this special provision constitutes a failure to execute and return the Contract as required. Upon such failure to submit the EBDs as required herein, the bidder's security will be forfeited to the County. The

U.S. 50 HOV Lanes, Phase 1- El Dorado Hills to Bass Lake Grade 11/18/08 BOS meeting Page 4 of 6

Department would return to the Board with a recommendation to award the Contract to the next lowest responsive, responsible bidder who complies with the EBDs provisions.

Once it is determined that the EBDs are genuine, legible and complete, they will be placed in the lockable container and stored at the Department's Headington office. The Contractor will maintain the key. The EBDs will be examined by both County and the Contractor, at any time deemed necessary by either County or the Contractor, to assist in the negotiation of price adjustments and Contract Change Orders, or the settlement of disputes.

Authorize Director to Sign Escrow Agreement:

Pursuant to Special Provisions Section 5-1.06, "Payment of Withheld Funds," of the Contract Documents and the State of California Standard Specifications Section 9-1.057, "Progress Withholds for Federal-aid Contracts," the County shall retain ten percent (10%) of the value of work done from each Contractor payment as security for the fulfillment of the Contract. Alternatively, pursuant to the State of California Standard Specifications Section 9-1.065, "Release of Retained Funds," and pursuant to Public Contract Code Section 22300, the Contractor may request that payment of retentions earned be made directly to an Escrow Agent. The Contractor shall receive the interest earned on the investment.

In accordance with these provisions, the Contractor may request in writing that the County make payment of retention funds directly into an escrow account, which would necessitate an Escrow Agreement. To help expedite this process if requested by the Contractor, the Department requests that the Board authorize the Director of Transportation to execute the Escrow Agreement. Upon satisfactory completion of the Contract and upon written notification from the Director of Transportation, the Contractor shall receive from the Escrow Agent all retention paid into the account and any interest earned thereon.

Request for Additional Contract Change Order (CCO) Authority:

Public Contract Code Section 20142 allows a Board of Supervisors to authorize the County Engineer or other county officer to order changes in the work of a public contract. This ability to delegate is capped by statute at \$150,000. The Board, by Resolution 106-93 has utilized this provision and delegated to the Directors of Transportation, Environmental Management and General Services, and the Chief Administrative Officer, CCO authority not to exceed \$50,000.

Given the magnitude of the subject Contract and the exposure to the County should work be delayed due to a needed change, it is requested the CCO limit for this Contract be increased to \$150,000, which is consistent with the limits set in the Public Contract Code. This authority is requested provided the cumulative cost of all CCOs is maintained within the contingency budget established for the Project.

Approval of CCOs for Supplemental Items of Work (4/5 vote required):

The Project Contract has been prepared in conformance with County and State of California Department of Transportation (Caltrans) bid item payment procedures. In doing so, certain items of work, necessary to complete the Project and which require a variable work effort to complete, are identified in the Contract Documents as supplemental items of work to be performed and paid for on a time and material basis, using standard Caltrans

U.S. 50 HOV Lanes, Phase 1- El Dorado Hills to Bass Lake Grade 11/18/08 BOS meeting Page 5 of 6

force account billing procedures. The work is authorized by issuance of a CCO, which also encumbers the funds anticipated to be needed for each of the planned supplemental items and is billed against as the work progresses. The amount of each CCO is based on an evaluation by the Department staff of the Project components, area, and time frame.

Due to the magnitude of the Project, the value of some of the supplemental work items will/may exceed the Department's authority for individual CCOs. Approval is therefore requested for the following six large supplemental work item CCOs totaling \$2,689,000.

1)	Maintain Traffic/Flagging	\$700,000
2)	Dust Control	\$500,000
3)	Water Pollution Control	\$650,000
4)	Compensation Adjustments for Price	
	Index Fluctuations of Paving Asphalt	\$380,000
5)	Incentive for Hot Mix Asphalt (QC/QA)	\$170,000
6)	Repair Structural Section	\$289,000
TO	TAL:	\$2,689,000

The remaining supplemental work items are anticipated to remain within the Department's authority for CCOs.

Authorize the Director to sign the Dispute Review Board Agreement:

Pursuant to Section 5-1.32, "Dispute Review Board," of the Special Provisions, a Dispute Review Board (DRB) shall be established by the Engineer and the Contractor cooperatively upon Contract approval. Caltrans requires that this provision be included in the contract documents of any project with an estimated cost of over \$10,000,000 and 100 or more working days. The DRB will serve as an advisory body to assist in the resolution of disputes or potential claims when dispute or potential claim resolution at the project level is unsuccessful. Although not binding to the parties in dispute, the DRB considers disputes and/or potential claims referred to it, and furnishes written reports with findings and recommendations to the parties to aid in the resolution of their differences.

The DRB is comprised of three members: one member selected by the County and approved by the Contractor; one member selected by the Contractor and approved by the County; and, one member selected by the other two members and approved by the County and the Contractor.

A copy of the DRB Agreement to be executed by the County, the Contractor, and the three DRB members is included in Section 5-1.32 of the Contract Documents. The DRB provisions state that the County authorizes the Engineer to execute and administer the terms of the Agreement. County Counsel has reviewed and approved these provisions as part of their Contract Document approval. To help expedite this process, the Department requests that the Board authorize the Director of Transportation to execute the DRB Agreement.

Action to be taken by the Department following Board approval:

1. The Department will forward the approved Construction Contract to the lowest responsive, responsible bidder for its signature.

- 2. Upon receipt of the EBDs, the Department will review the EBDs with the Contractor's representative to confirm they are complete. Once this is confirmed the Department will store the EBDs in a locked container at the Headington office.
- 3. Upon receipt of the executed Construction Contract and compliant EBDs from the Contractor, the Department will submit the final Contract Documents, including the required bonds and insurance, to County Counsel and Risk Management for review and approval.
- 4. Upon approval by County Counsel and Risk Management, the Department will forward the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet to the Board Clerk for the Board Chairman's signature.
- 5. Upon receipt of the fully executed Construction Contract, the Department will forward the approved Contract to the Contractor and will issue a Notice to Proceed.
- 6. Upon approval of the recommendation, the Director of Transportation will sign the Escrow Agreement, if requested by the Contractor and in accordance with Public Contract Code Section 22300. The Department will make retention payments to the Escrow Agent and, after satisfactory completion of the Contract, the Director of Transportation will make written notification to the Escrow Agent.
- 7. The Director of Transportation will execute CCOs as approved and/or delegated by the Board.
- 8. Upon approval of the recommendation and selection of the members, the Director of Transportation will sign the Dispute Review Board Agreement.

Action to be taken by the Board Clerk's Office following Board approval: None

Sincerely

Richard W. Shepard, P.E. Director of Transportation

ATTACHMENT 1 DEPARTMENT OF TRANSPORATION STAFF EVALAUTION OF BID PROTEST FOR U.S. 50 HOV LANES, PHASE 1 – EL DORADO HILLS TO BASS LAKE GRADE PROJECT (JN 53110)

ATTACHMENT 1

DEPARTMENT OF TRANSPORATION STAFF EVALUATION OF BIDS AND BID PROTESTS

Department staff has reviewed and evaluated all bids with respect to a variety of factors, including the accuracy of the unit prices and corresponding bid totals of the Proposal Pay Items and Bid Price Schedules submitted; the submittal of the subcontractor information related to Subcontractor Listing in accordance with Public Contract Code Section 4100 and related to the subcontractor data required for tracking Disadvantaged Business Enterprises (DBEs); proper execution of the Equal Employment Opportunity Certification and Public Contract Code sections 10285.1,10162, and 10232 Statements; inclusion of the Noncollusion Affidavit; satisfactory certification of Debarment and Suspension and Non-Lobbying; acknowledgment of addenda; proper execution of and signature acknowledgment for the bid bond; and current and valid contractor license for the type of work to be performed.

With the exception of the issues raised in the Bid Protests, staff has found the bid proposals to be responsive. A discussion of the facts related to the Bid Protests follows.

Teichert's allegations regarding listing the percentage of the items of work to be performed instead of the percentage of work compared to the total bid

A. Teichert & Son, Inc. dba Teichert Construction (Teichert) has protested that both Nehemiah Construction, Inc. (NCI) and Granite Construction Company (Granite) indicated on their Bidders Subcontractor Listing (DBE and non-DBE) Part I form (Part I form) the percentage of the item of work the subcontractor will perform instead of the percentage of work compared to their total bid. Teichert contends that with this approach, the Department can not confirm that the two bidders are self-performing at least 50% of the total amount bid.

Based on staff's analysis to date, staff was able to confirm that each of the two bidders intends to self-perform at least 50% of the total amount of bid. Staff was able to come to this conclusion by taking the percentage listed on the form for a particular subcontractor and multiplying this percentage by the amount bid for each bid item that falls within the category of work listed for that subcontractor to arrive at the value of work in that category that the subcontractor will perform. This calculation was repeated for each subcontractor, category of work, and percentage listed. The sum of these values equals the value of work to be subcontracted. If the result of dividing this sum by the total amount of the bid is less than 50%, the bidder will self-perform greater than 50% of the work.

Attachment 1- Staff Evaluation of Bids and Bid Protests US 50 HOV Lanes Phase 1- El Dorado Hills to Bass Lake Grade 11/18/08 BOS Meeting Page 2 of 4

There were certain categories of work listed in the Part I form for which further calculation was required in order determine the value of the subcontracted work in the category. Striping and sawcutting are two examples where further calculation was required.

The total value of work Granite proposes to subcontract without including the sawcutting is calculated to be 33%. In order to exceed the 50% threshold, the value of the sawcutting would have to be in excess of \$4,000,000, which is unlikely. As an additional check staff performed time, labor, and equipment calculation of the sawcutting based upon information in the engineer's estimate and has estimated that 80% of the value of the sawcutting is \$10,400.

In order to determine the value of the striping work to be subcontracted staff assumed each bid item involving striping and marking was going to be subcontracted to the firm listed on Granite's and NCI's Part I forms for striping. Using this assumption staff has calculated that striping subcontracted work is one percent of the total amount bid for Granite and less than one percent of the total amount bid for NCI.

Therefore the information provided by both NCI and Granite in the Part I form is sufficient for staff to determine whether each is self-performing at least 50% of the total amount bid.

Granite's allegation that NCI failed to list all subcontractors

The instructions on the Part I form state 'The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and in accordance with 49 CFR 26.11."

Granite's protest states that NCI failed to list those subcontractors that are performing less than 0.5% of the total bid price thus not satisfying 49 CFR 26.11 and Section 2-1.05 of the Special Provisions. Granite listed the following items of work for which NCI did not list subcontractors: clear and grub, erosion control, construction area signs, roadside signs, prestressing, blasting, AC dike and miscellaneous AC, sawcut, and paving fabric and tack. It is possible for NCI to self-perform these items of work and, if so, it would not need to list subcontractors.

Granite's allegation that NCI can not perform the blasting.

Granite has stated that since NCI did not list any subcontractor for blasting, and that it appears that NCI can not legally self-perform the blasting, NCI's bid is non-responsive.

Attachment 1- Staff Evaluation of Bids and Bid Protests US 50 HOV Lanes Phase 1- El Dorado Hills to Bass Lake Grade 11/18/08 BOS Meeting Page 3 of 4

Section 10-1.31 "Rock Excavation" of the Special Provisions states that "Rock excavation shall consist of removing rock, durable rocky material and earthen material as shown on the plans using hydraulic hammers, pneumatic hammers, roadway excavation techniques, controlled blasting, or other methods approved by the Engineer in writing." The geotechnical report included in the informational handout to the bidders similarly indicates that it is expected that certain areas will require "blasting or alternative excavation methods (e.g. splitting, chipping, pneumatic hammers, etc.) to facilitate excavation".

NCI has stated that they intend to excavate the rock with hydraulic ram equipment, which is a contractually permitted rock excavation methodology. NCI's higher unit price (\$145/CY) compared to the other bids of \$77/CY, \$41/CY and \$60/CY is consistent with NCI's proposed methodology, which would be more time consuming and thus more costly than blasting.

Given that blasting is not required by the specifications, NCI's omission of a blasting subcontractor and its election to utilize an authorized alternative method of rock excavation conform to the specifications.

Teichert's allegation that NCI's bid is impermissibly unbalanced

Teichert has stated that NCI's bid is unbalanced suggesting that this unbalancing was to permit NCI to move dollars to items of work which are likely to be paid early in the job. Teichert cites the traffic control bid item as a "glaring example". NCI bid \$50,000 for this item while the other bids for this item were \$1,045,572 for Granite, \$650,000 for Teichert, and \$225,000 for De Silva Gates L.P. Although NCI's bid for this item is lower than might be expected, staff has reviewed each bid item amount and can find no bid item that appears to be impermissibly front loaded. Staff has noted that NCI's bid is comparatively low on a number of items, which resulted in their bid being the lowest bid. Staff has concluded that NCI's bid is not obviously unbalanced.

Clarification of Staff's position on NCI's Subcontractor Listing

NCI has contended that the County already accepted the seven listed subcontractors at the bid opening. Staff would like to clarify for the record that staff only questioned NCI whether they intended to list only four subcontractors. NCI responded that they used both the Part I and the Part II forms to list the subcontractors they intended to use.

NCI's attorney states that "the County confirmed its correct interpretation of NCI's bid proposal when it published the bid results on October 30, 2008

Attachment 1- Staff Evaluation of Bids and Bid Protests US 50 HOV Lanes Phase 1- El Dorado Hills to Bass Lake Grade 11/18/08 BOS Meeting Page 4 of 4

showing that ABSL, Kie-Con, and Angelo were in fact listed as subcontractors to perform work on the project." These three subcontractors were listed on the Part II form. Though staff issued a letter containing the bid results that listed all seven subcontractors (four on the Part I and three on the Part II form), that letter was clear that all bid proposals were still being reviewed by the Department and County Counsel for compliance with bidding requirements.

In summary, staff expressed no conclusions regarding the responsiveness of NCI's bid during the bid opening or in publishing the bid results.

ATTACHMENT 2 BID PROPOSALS FOR U.S. 50 HOV LANES, PHASE 1 - EL DORADO HILLS TO BASS LAKE GRADE PROJECT (JN 53110)

(Because some colored inks will not reproduce in copy machines, please use black ink to complete this Proposal)

PROPOSAL

(to be attached to and submitted with this bound Contract Document bid package)

TO: THE DEPARTMENT OF TRANSPORTATION, COUNTY OF EL DORADO, STATE OF CALIFORNIA

for the construction of

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE GRADE **CONTRACT NO. 53110**

	CON	1101101		
NAME OF BIDDER	Nehemiah	Lons	truction In	<u>(</u>
BUSINESS P.O. BO	x	1		
OTTY STATE 719	Benicia	Ca	94510	
CH1, SIAIL, Zii _	ADDRESS 801 Fie	ict st	Suite G	
BUSINESS STREET	ADDRESS		(Please include even if P.	O. Box used)
	Benicia	Cas	94510	
CITY, STATE, ZIP				
TELEPHONE NO:	AREA CODE 717	746 6	870	
FAX NO:	AREA CODE (767)	746 6	1815	

The work for which this Proposal is submitted is for the construction in accordance with these Contract Documents (including the payment of not less than the State general prevailing wage rates or Federal minimum wage rates set forth herein), the Project Plans described below, including any addenda thereto, the Contract annexed hereto, and also in accordance with the California Department of Transportation Standard Plans, dated May 2006, the Standard Specifications, dated May 2006, Amendments to the May 2006 Standard Specifications, standard drawings from the Design and Improvement Standards Manual of the County of El Dorado, revised March 8, 1994 including Resolutions 199-91 and 58-94 to adopt changes to the Design and Improvement Standards Manual; the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished, and in accordance with the General Prevailing Wage rates. The Project Plans and Contract Documents for the work to be done are entitled:

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE

CONTRACT NO. 53110

Bids are to be submitted for the entire work. The amount of the bid for comparison purposes will be the total of all the items.

The Bidder shall set forth for each unit basis item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

County of El Dorado DOT Proposal Page P-1 basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.

In case of discrepancy between the item price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b), as follows:

- If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount as the entry in the item total column, then the amount set forth in the total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;
- (b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc., from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage wise the unit price or item total in the Department's Final Estimate of cost.

If this Proposal is accepted and the undersigned Bidder shall fail to enter into the Contract and furnish the two bonds in the sums required by the State Contract Act, with surety satisfaction to the County of El Dorado within eight (8) days, not including Sundays and legal holidays, after the Bidder has received notice from the County of El Dorado that the Contract has been awarded, the County of El Dorado may, at its option, determine that the Bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void and the forfeiture of such security accompanying this Proposal shall operate and the same shall be the property of the County of El Dorado.

The undersigned, as Bidder, declares under penalty of perjury under the laws of the State of California that the only persons or parties interested in this Proposal, as principals, are those named herein; that this Proposal is made without collusion with any other person, firm, or corporation; that it has carefully examined the location of the proposed work, the annexed proposed form of Contract, and the Plans therein referred to; and that it proposes, and agrees if this Proposal is accepted, that it will contract with the County of El Dorado, in the form of the copy of the Draft Contract annexed hereto, to provide all necessary machinery, tools, apparatus, and other means of construction, and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that it will take in full payment therefore the following item prices, to wit:

PROPOSAL PAY ITEMS AND BID PRICE SCHEDULE (ENGINEER'S ESTIMATE)

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE GRADE CONTRACT NO. 53110

IT	EM NO.	ITEM CODE	TEM DECEDITORIAL	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (Li Figures)
1		070012	PROGRESS SCHEDULE (CRITICAL PATH METHOD)	LS	LUMP SUM	17500 mg	17, 500°
2	-	071325	TEMPORARY FENCE (TYPE ESA)	LF	5090	300	15,270
3		074013	PROTECTION OF MIGRATORY BIRDS	LS	LUMP SUM	10,000	10000
4	ļ	074014	FURNISH FIELD OFFICE	LS	LUMP SUM	20000	20000
5	(S)	074019	PREPARE STORM WATER POLLUTION PREVENTION PLAN	LS	LUMP SUM	5000	5000
6	(S)	074028	TEMPORARY FIBER ROLL	LF	43500	300	130,500
7	(S)	074029	TEMPORARY SILT FENCE	LF	4720	300	14/60
8	(S)	120090	CONSTRUCTION AREA SIGNS	LS	LUMP SUM	15,000	15000
9	(S)	120100	TRAFFIC CONTROL SYSTEM	LS	LUMP SUM	50000	5000
10	(S)	120120	TYPE III BARRICADE	EA	110	35 4	3,850
11	(S)	120130	TRAFFIC PLASTIC DRUM	EA	380	441	22,800
12	(S)	120149	TEMPORARY PAVEMENT MARKING (PAINT)	SQFT	210	15	3,150
3	(S)	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	LF	67100	.25	6,775
4	(S)	120300	TEMPORARY PAVEMENT MARKER	EA	6890	3 00 2	0,670
5	(S)	120165	CHANNELIZER (SURFACE MOUNTED)	EA		/	8400 a
3	(S)	128650	PORTABLE CHANGEABLE MESSAGE SIGN	SWD	1980	5 00 9	1900 4

ITEM	1 NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
8						10	7/3,000
17	(S)	129000	TEMPORARY RAILING (TYPE K)	LF	71300	- '	117
18	(S)	129100	TEMPORARY CRASH CUSHION MODULE	EA	230	2000	46000
19	(S)	129111	TEMPORARY CRASH CUSHION (ABSORB 350)	EA	9	2,000	18000
20	(S)	129150	TEMPORARY TRAFFIC SCREEN	LF	67300	3 00	201,900
21		150206	ABANDON CULVERT	LF	80	3000	2,400
22		150221	ABANDON INLET	EA	1	50000	500
23	(S)	150605	REMOVE FENCE	LF	570	1000	5,700
24	(S)	150662	REMOVE METAL BEAM GUARD RAILING	ĻF	2480	1500	37200
25	(S)	150669	REMOVE DOUBLE THRIE BEAM BARRIER	LF	8810	1000	88/100
26	(S)	150710	REMOVE TRAFFIC STRIPE	LF	78700	,50	39,350
27	(S)	150713	REMOVE PAVEMENT MARKING	SQFT	630	200	1,260
28		150722	REMOVE PAVEMENT MARKER	EA	6100	100	6,100
29		150742	REMOVE ROADSIDE SIGN	EA	41	15000	6,150
30		150760	REMOVE SIGN STRUCTURE	EA	4	1000	4000
31		BLANK				,	
32		150771	REMOVE ASPHALT CONCRETE DIKE	LF	22600	300	67800
33		150772	REMOVE CURB	LF	1270	2000	25400
34		150806	REMOVE PIPE	LF	510	25	12,750
35		150820	REMOVE INLET	EA	8	2000	1,600

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 5 County of El Dorado DOT
Proposal
P-4

ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
36		150823	REMOVE DOWNDRAIN	EA	5	200	jan
37	(F)	150829	REMOVE RETAINING WALL	LF	378	5000	18900
38		150857	REMOVE ASPHALT CONCRETE SURFACING	SQFT	8140	600	18840
39		150859	REMOVE ASPHALT CONCRETE OVERSIDE DRAIN	EA	13	2000	2,600
40		150860	REMOVE BASE AND SURFACING	CY	1400	60 ac	84cm
41		151572	RECONSTRUCT METAL BEAM GUARD RAILING	LF	1760	25 4	44,000
42		152326	RESET TERMINAL SYSTEM	EA	1	2,000	2000
43		152642	MODIFY SIGN STRUCTURE (SAFETY CABLE RETROFIT)	EA	2	1,000	2000 CE
44	(S)	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	SQYD	176000	232	404800
45	(S)	153235	CLEAN BRIDGE DECK	SQFT	8140	7	16,280
46		153239	REMOVE CONCRETE (CURB, GUTTER, AND SIDEWALK)	LF	590	3000	25,900 ch
47		155003	CAP INLET	EA	1	500°	5000
48		156 585	REMOVE CRASH CUSHION	EA.	1	1,000	1,000 as
49		157550	BRIDGE REMOVAL	LS	LUMP SUM	12400	12400
50		157560	BRIDGE REMOVAL (PORTION)	LS	LUMP SUM	10,000	JUCKN
51		160101	CLEARING AND GRUBBING	LS	LUMP SUM	25,000	25000
52	(F)	190101	ROADWAY EXCAVATION	CY	63411	27 9	1,712,097
53	(F)	190102	BIOFILTRATION SWALE	LF	613	200	12,260
54	(S)	190110	LEAD COMPLIANCE PLAN	LS	LUMP SUM	5000	5000

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 5 County of El Dorado DOT
Proposal
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ITEN	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
55		190113	ASBESTOS COMPLIANCE PLAN	LS	LUMP SUM	500°	5000
56		190118	ASBESTOS CONTAINING MATERIAL REMOVAL	LS	LUMP SUM	1,000	1,000
57		190119	PREPARE FUGITIVE DUST PLAN	LS	LUMP SUM	1,000	1,000
58	(F)	190161	ROCK EXCAVATION	CY	13126	145 145	1,903270
59	(F)	192003	STRUCTURE EXCAVATION (BRIDGE)	CY	8932	1200	1071840
60	(F)	192004	LOW EXPANSION MATERIAL	CY	5078	200	101,560
61	(F)	193003	STRUCTURE BACKFILL (BRIDGE)	CY	6489	1000	64,890
62	(S)	203016	EROSION CONTROL (TYPE D)	SQYD	41300	100	41,300
63	(S)	203026	MOVE-IN/MOVE-OUT (EROSION CONTROL)	EA	8	5000	400°
64		260201	CLASS 2 AGGREGATE BASE	CY	45500	42°	1,91),000
65		390131	HOT MIX ASPHALT	TON	67600	Er.00	5 104.000 co
66		390138	RUBBERIZED HOT MIX ASPHALT (OPEN GRADED)	TON	16400	10000	1,640,00
67		391031	PAVING ASPHALT (BINDER- PAVEMENT REINFORCING FABRIC)	TON	5	5000	2,5000
68	(P)	393001	PAVEMENT REINFORCING FABRIC	SQYD	3090	200	6/800
69		394073	PLACE HOT MIX ASPHALT DIKE (TYPE A)	LF	500	3 04	15000
70		394074	PLACE HOT MIX ASPHALT DIKE (TYPE C)	LF	430	300	1,290 00
71		394075	PLACE HOT MIX ASPHALT DIKE (TYPE D)	LF	4680	300	14,040
72		394076	PLACE HOT MIX ASPHALT DIKE (TYPE E)	LF	17200	2 04	34900
73		394077	PLACE HOT MIX ASPHALT DIKE (TYPE F)	LF	800	3 00	2,400

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 5 County of El Dorado DOT
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ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
74		394090	PLACE HOT MIX ASPHALT (MISCELLANEOUS AREA)	SQYD	6950	30 CK	208500
75	(S-P)	490508	FURNISH STEEL PILING (HP 10 X 57)	LF	238	1000	23,800
76	(S)	490509	ORIVE STEEL PILE (HP 10 X 57)	EA	12	5000 as	6000 CL
77	(S-P)	500001	PRESTRESSING CAST-IN-PLACE CONCRETE	LS	LUMP SUM	40000	4000°
78	(F)	510051	STRUCTURAL CONCRETE, BRIDGE FOOTING	CY	1229	7000	860,30°
79	(F)	510053	STRUCTURAL CONCRETE, BRIDGE	CY	3149	36000	1133690
80	(F)	510086	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE N)	CY	533	800 4	426, fox
81	(F)	510087	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE R)	CY	167	8000	133600
82	(F)	510502	MINOR CONCRETE (MINOR STRUCTURE)	CY	141	4000	56,400°
83		510800	PAVING NOTCH EXTENSION	CY	4	2000	8 occ
84	(F)	511057	DRY STACK ROCK TEXTURE	SQFT	12199	800	9750
85		511106	DRILL AND BOND DOWEL	LF	7 87	20 al	15,7400
86		511110	DRILL AND BOND DOWEL (CHEMICAL ADHESIVE)	EA	104	4000	4,1600
87	(S-P)	512226	FURNISH PRECAST PRESTRESSED CONCRETE BOX GIRDER (90'-100')	EA	48	22000a.	
88	(S)	512502	ERECT PRECAST PRESTRESSED CONCRETE BOX GIRDER	EA	48	1000 Co	16000 00
89		519075	ROCK ANCHOR	LF	600	170.00	1020000
90		519087	JOINT SEAL (TYPE B-MR 2")	LF	360	204	7,200
91	(S-P)	519101	JOINT SEAL (TYPE A)	LF	271	20 4	5,420"
92	(S-F-P)	520102	BAR REINFORCING STEEL (BRIDGE)	LB	982112	.80	78:689 C

ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
93	(S-F)	540102	TREAT BRIDGE DECK	SQFT	8140	3 00	24420
94	(S)	540108	FURNISH BRIDGE DECK TREATMENT MATERIAL	GAL	91	1000	9100 00
95	(F)	560203	FURNISH SIGN STRUCTURE (BRIDGE MOUNTED WITH WALKWAY)	LB	2068	14	2,068
96	(F)	560204	INSTALL SIGN STRUCTURE (BRIDGE MOUNTED WITH WALKWAY)	LB	2068	,50	1034
97	(F-P)	560218	FURNISH SIGN STRUCTURE (TRUSS)	LB	69400	1 4	69400
98	(S-F)	560219	INSTALL SIGN STRUCTURE (TRUSS)	LB	69400	,50	34,700
99	10.7	560248	FURNISH SINGLE SHEET ALUMINUM SIGN (0.063"- UNFRAMED)	SQFT	150	304	4,500 W
100		560249	FURNISH SINGLE SHEET ALUMINUM SIGN (0.080"- UNFRAMED)	SQFT	910	3000	27,300
101	(S)	561016	60" CAST-IN-DRILLED-HOLE CONCRETE PILE (SIGN FOUNDATION)	LF	95	600 cm	57,000
102		562002	METAL (BARRIER MOUNTED SIGN)	LB	1970	300	591000
103	(S)	566011	ROADSIDE SIGN - ONE POST	EA	33	200 4	6,600 as
104	(S)	566012	ROADSIDE SIGN - TWO POST	EA	6	2000	1,200
105	(S)	566014	ROADSIDE SIGN (BRIDGE MOUNTED)	EA	2	2000	4cm a
106	(P)	650018	24" REINFORCED CONCRETE PIPE	LF	3420	40 w	136800
107	(P)	650026	36" REINFORCED CONCRETE PIPE	LF	150	120	18000
108	(P)	66571 6	18" SLOTTED CORRUGATED STEEL PIPE (.064" THICK)	LF	210	80 ay	168000
109	(P)	665036	36" CORRUGATED STEEL PIPE (.079" THICK)	LF	8	120 4	96000
110	(P)	690111	12" CORRUGATED STEEL PIPE DOWNDRAIN (.064" THICK)	LF	40	120 ay	4,800 ce 21,600 ce
111	(P)	690116	18" CORRUGATED STEEL PIPE DOWNDRAIN (.064" THICK)	LF	180	120 cm	21,600

ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
112	(P)	690123	24" CORRUGATED STEEL PIPE DOWNDRAIN (.079" THICK)	LF	130	1200	156cm
113	(P)	690131	30" CORRUGATED STEEL PIPE DOWNDRAIN (.079" THICK)	LF	16	12000	1,9200
114	(P)	692005	12" ENTRANCE TAPER	EA	3	300 00	90000
115	(P)	692007	18" ENTRANCE TAPER	EA	4	300 0	1,2000
116	(P)	692207	18" DOWNDRAIN SLIP JOINT	EA	1	300 cm	300 00
117	(P)	692305	12" ANCHOR ASSEMBLY	EA	9	300 00	2,700 (4
118	(P)	692307	18" ANCHOR ASSEMBLY	EA	28	2000	5,6000
119	(P)	692309	24" ANCHOR ASSEMBLY	EA	13	200 4	2,600 cm
120		692311	30" ANCHOR ASSEMBLY	EA	2	2000	4000
121	(P)	705007	12" STEEL FLARED END SECTION	EA	3	200 4	600 as
122	(P)	705011	18" STEEL FLARED END SECTION	EA	3	2000	600 00
123	(P)	705015	24" STEEL FLARED END SECTION	EA	5	2000	1, ac
124	(P)	705019	30° STEEL FLARED END SECTION	EA	1	2000	2000
125	(P)	705206	24" CONCRETE FLARED END SECTION	EA	111	200	200 4
126		707225	48" PRECAST CONCRETE PIPE MANHOLE	EA	11	500 au	5,500 a
127		721007	ROCK SLOPE PROTECTION (1/4 TON, METHOD B)	CY	700	6000	420w
128		721008	ROCK SLOPE PROTECTION (LIGHT, METHOD B)	СУ	880	60 ay	52,800
129		721010	ROCK SLOPE PROTECTION (BACKING NO. 1, METHOD B)	CY	90	100 04	9000
130	(P)	729010	ROCK SLOPE PROTECTION FABRIC	SQYD	3930	2 00	7,860

ITEM	NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
121		731504	MINOR CONCRETE (CURB AND GUTTER)	CY	34	3004	10,200
131			MINOR CONCRETE (SIDEWALK)	CY	570	3000	171,000
132		731521	MINOR CONCRETE (TEXTURED PAVING)	CY	210	3000	63000
133	(0 F D)	731530 750001	MISCELLANEOUS IRON AND STEEL	LB	22935	100	22,435
134	(S-F-P) (P)	800320	CHAIN LINK FENCE (TYPE CL-4)	LF	570	40	27,800
135	(P)	820106	CONCRETE BARRIER DELINEATOR	EA	4	50 4	200 00
136		820107	DELINEATOR (CLASS 1)	EA	50	25	1,230
137		820118	GUARD RAILING DELINEATOR	EA	17	25 4	425°
		820151	OBJECT MARKER (TYPE L-1)	EA	12	25	300-
139	(S-P)	832003	METAL BEAM GUARD RAILING (WOOD POST)	LF	3680	15	55200
141	(3.7)	632070	VEGETATION CONTROL (MINOR CONCRETE)	SQYD	2460	6000	147,600
142		833080	CONCRETE BARRIER (TYPE K)	LF	600	3000	180w
143	(S)	839311	DOUBLE THRIE BEAM BARRIER (WOOD POST)	LF_	30	6000	
144		839521	CABLE RAILING	LF	54	5000	2,100
145		839541	TRANSITION RAILING (TYPE WB)	EA	8		16000 a
146		839581	END ANCHOR ASSEMBLY (TYPE SFT)	EA	5	1000	5,000
147		839584	ALTERNATIVE IN-LINE TERMINAL SYSTEM	EA	2	3,000	6000
148		839585	ALTERNATIVE FLARED TERMINAL	EA	8	2000	16,000
149		839591	541 FD	EA	1	3,000	24 _

TEM	NO.	ITEM			UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
			+	RASH CUSHION (TYPE CAT)	EA	1	3000 00	3000 50
50	(P)	83960	c	RASH CUSHION (TYPE CAT)	EA	1	3000.00	9000 00
51	(P)	8396		BACKUP	54	1	3000 00	3000
52	(S-P)	8396	06	CRASH CUSHION (WIDETRACC)	EA		3000.00	3000.0
153	(S-P	8396	607	CRASH CUSHION (SHORTRACC)	EA	1	30.00	15/80.
154		839	701	CONCRETE BARRIER (TYPE 60)	LF	5160	+/	
	1	839		CONCRETE BARRIER (TYPE 60A MOD)	LF	430	40.00	+
155	(F)			CONCRETE BARRIER (TYPE 60C)	LF	4230	40 00	1692 00
156	-	839	703	*	LF	420	35.00	14700.
157	-	839	704	CONCRETE BARRIER (TYPE 60D)		250	80.00	26000
158	1	839	9705	CONCRETE BARRIER (TYPE 60E) CONCRETE BARRIER (TYPE 736	<u>LF</u>		80.00	90320
159	,	83	9727	MODIFIED)	LF_	1129	80.00	10/00
160		83	9741	CONCRETE BARRIER (TYPE 60 MOD)	LF	130	80 00	101/2
		83	9742	CONCRETE BARRIER (TYPE 60D MOD)	LF	130		
16	+			CONCRETE BARRIER (TYPE 60R)	LF	80_	800	
16	2		39743	THERMOPLASTIC TRAFFIC STRI	_	156000		31200
16	3	S) 8	40501	THERMOPLASTIC PAVEMENT	SQFT	1490	300	4,470
19	64	(S) 8	40515	MARKING		157000	,20	31,40
1	65	(S) E	340653	PAINT TRAFFIC STRIPE	<u>LF</u>		7	3,52
	66	(S) (340660		SQF	1760	1	1090
		S-P)	85010 <u>1</u>	PAVEMENT MARKER (NON- REFLECTIVE)	EA	10400	1 4	/ /
H	67	S-P)		PAVEMENT MARKER (RETROREFLECTIVE)	EA	7270	1 1	7,27

		s se ushqiqa						
169		850114	CONCRETE BARRIER MARKER	EA	220	25 4	5,5000	
170	(S)	860251	SIGNAL AND LIGHTING (LOCATION	LS	LUMP SUM	16000 CA	torco	h.
171	(S)	860252	SIGNAL AND LIGHTING (LOCATION 2)	LS	LUMP SUM	10000.0	10000	0
172	(S)	860298	SIGNAL AND LIGHTING (STAGE CONSTRUCTION)	LS	LUMP SUM	20000.00	20000	40
173	<u>(S)</u>	860299	OVERHEIGHT VEHICLE DETECTION SYSTEM	LS	LUMP SUM	4 simo a	40000	n
174		860316	WIRELESS VEHICLE DETECTION SYSTEM	LS	LUMP SUM	4000.00	400000	0
175	(S)	860415	LIGHTING AND SIGN ILLUMINATION (STAGE CONSTRUCTION)	LŞ	LUMP SUM	40000	1000.0	20
176	(S)	860460	LIGHTING AND SIGN ILLUMINATION	LS	LUMP SUM	3000.00	30000	9
177	(S)	860461	LIGHTING (CITY STREET) (LOCATION 1)	LS	LUMP SUM	30000 -	30000	50
178	~ (S)	860462	LIGHTING (CITY STREET) (LOCATION 2)	LS	LUMP SUM	30 000.00	30000	•
179			TRENCH AND EXCAVATION SAFETY	LS	LUMP SUM	2000.00	4000 0	P
180		999990	MOBILIZATION	LS	LUMP SUM	2 600 COV. 02	2400	a a
TO	TAL BI	D			26	115035	5.60	

(NOTICE: Bidder's failure to execute the questionnaires and statements contained in this Proposal as required by applicable laws and regulations, or the determinations by El Dorado County based upon those questionnaires and statements, may prohibit award of the subject Contract to the Bidder.)

⁽F) Final Pay Quantity
(S) Specialty Item
(P) Item Eligible for Partial Payment
(LS) Lump Sum
(SWD) Sign working day

BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) - PART |

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2.1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code or SUBCONTRACTORS (DBE and NON-DBE)- PART II" form for subcontractors who submitted a quote or bid but were not selected to participate on this project). Federal Regulations. USE THIS FORM TO LIST ONLY SUBCONTRACTORS THAT WILL WORK ON THIS PROJECT (Use "BIDDER'S LIST OF Photocopy this form to list additional firms and attach the additional sheets to this page.

Firm Name & CSLB License #/	Phone/	Annual		
Address/	For Numbers	C. Dec	Description of & Percentage of Work to be	Local Agency Use Only
City, State, ZIP	e i ser i ren i	Receipts	Performed	(Certified DBE?)
Name & CSLE License Number 524261	Phone ,	< \$1 million	Cuoanas	TIMES
MID 51. 9402162 IN.	100/04/-0525		Sica Francisman	2
Address		< \$10 million	PASIZICIZ PAIL	FINS Lie Die 6.
8cx 255.	Fax	1 \$15 milion		
City State ZIP 52. L. F.L. C. A 45-1.3	2.24/2-45.4 []>\$15 million	> \$15 million	(900)	Age of Fern (Yra.)
Mame a SLB License Number /2003/2	Phone	\$1 million	1281 NFO, 25, MG	TYES
HAZINS DALINGS A	025/27	C < 55 million		2
Address 5 7436 050	< \$10 milhon	< \$10 milbon		FIRS Me DIR 6.
C. U.C. 1. 16 C. C. 0 3455/	Far	< \$15 milhon	1001	
Cuy Space ZIP	455 1073-42	S\$15 million	(44)	Age of Frm (Yra.)
Mane & SLB License Number 382173	Phone	osillion	BRIDGE DEMO	Oves
Tearing " Hillorisy	SA/E/G. 1. C. CES million	G < ₺ million		2
Address		< \$10 milhon		FTS IM DIRE.
1790 CHAISTIS - 464	Fut	aoillias > 🗌	160%	
	31/881.5%	1) \$15 million		Age of Fum (Yra.)
Name & SLB License Number '3 7 4 Co	Phone ,	< \$1 million	700	J. D.
	in in	< \$5 million		3 2
97	7.6 3. W	\$10 million	(73 8)	# PES in DRG #
736350 (15600D	Fax /	< \$15 million	(2/00)	
Lysme 21F	909/746 -035 US \$15 million	(Stismilion		Age of Firm (Yra.)
		B		

BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) - PART II

The biblicr shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project on this form. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form to list additional firms and attach the additional sheets to this page.

	Local Agency Use Only (Certified DRF2)	340		FYES IN DRE	Cr. mer 70	Age of Furn (Yr.)	4	- NEC		FITS Les DES C.		Age of Fam (Yra.)		Acres -	3		# MS lie DBE #		(115) Hard (115)	AE6	3	<u>Q</u>	# TES MA DIE #.		Age of Fern (Yrs.)	-
	Description of & Percentage of Work that was to be Performed	Cors Plane 41			1/0/	(45/6)		100 to 10	>6.			(30,5)			CLETRADO			(20%)								
Annual	Gross	□ < \$1 million	S million	C < \$10 mallion	C < \$15 milhon	U > \$15 multion	TISE 8995	< \$1 million	S million	C < \$10 million	<\$15 million	35 \$15 million		< \$1 million	S milion	< \$10 million	< \$15 million	> \$15 million		< \$1 million	i i	A SU PREMIOR	U < \$10 million	<\$15 million	> \$15 million	
Phone/	Fax	Phone	916/22-0143	C [] < \$10 multion	fer	016/375.04		Phone	12/25 Hand		Fer	4 Shed out	lean fell .	Phune	W. Last 3. Det Smillion	Pro7 - 001/01	Fax	110	11415 2024	Phone				7		
Firm Name & CSLB License #/	Address/ City, State, 21P	Name & CALB License Number 6-2178	Addin.	8 43- 76.	Cuysuk ZP	S	12816 A 41820	Marine a Calab License Number 133176	Marie - C & J	1551 W. A.	33: 1-2-1/2 AVE	Marie a Co alea		Name & SLB Livense Number 82 + 1/1		Address	9725 Dec 120	City State 21P	* C.A	Name & CSLB License Nipriber		Address		City Smie 71P		

(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The b	idder Nehemigh Construction Inc., proposed subcontractor, hereby certifies that he has V , has not
particip Orders the Off	ated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of fice of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former nt's Committee on Equal Employment Opportunity, all reports due under the applicable filling requirements.
Note:	The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts, which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)
	Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Public Contract Code Section 10285.1 Statement

Note: The Bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

Public Contract Code Section 10162 Questionnaire

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes ____ No ____

If the answer is yes, explain the circumstances in the following space.

Public Contract Code Section 10232 Statement

In conformance with Public Contract Code Section 10232, the Bidder, hereby states under penalty of perjury under the laws of the State of California, that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against the Bidder within the immediately preceding two year period because of the Bidder's failure to comply with an order of a Federal Court which orders the Bidder to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of El Dorado DOT
Proposal
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NONCOLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the Bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the Contract of anyone interested in the proposed Contract; that all statements contained in the bid are true; and, further, that the Bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

NOTE:

The above Noncollusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Noncollusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, or manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency:
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- · does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent
 jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining Bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No federal or state appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal or state agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or an employee of a Member of the Legislature or Congress in connection with the awarding of any state or federal contract, including this Contract, the making of any federal grant, the making of any state or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative contract.
- If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Contract, grant, local, or cooperative contract, the Bidder shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with the form instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder also agrees by submitting its bid or Proposal that it shall require that the language of this certification be included in all of its subcontracts which exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly. If the Bidder is awarded this Contract, it shall ensure that all subcontractors submit certifications regarding federal lobbying activities as required by Section 1352, Title 31, United States Code and that all such certifications are made a part of any subcontracts entered into as a result of this Contract.

DISCLOSURE OF LOBBYING ACTIVITIES this form to disclose to be because activities pursuant to 31 H S.C. 1352

Complete this form to dis	close loodying activitie	is pursuant to 51 0 5 C. 1332
e contract b grant	tue of Federal Action bid/offer/application binitial award c. post-award	3. Report Type: a initial b material change For Material Change Only: year quarter date of last report
4. Name and Adress of Reporting Entity: Prime Subawardee Tier, if known Congressional District, if known:		Reporting Entity in No. 4 is Subawardee. Enter Name and Address of Prime:
6. Federal Department/Agency:	A	edersi Program Name/Description: CFDA Numbsr, if applicable
8. Federal Action Number, if known:	/ 1	lward Amount, if known: S
10. a. Name and Addrees of Lobbying Entity (if individual, last name, first name, MI):	/	dividuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
11. Amount of Payment (check all that apply).		Type of Payment (check all that apply)
12. Form of Payment (check all that apply): a. cash b. in-kind; specify: nature value		a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other, specify:
14. Brief Description of Services Performed or to be employee(s), or member(s) contacted, for Paym	performed and Date nent indicated in item ntinuation Sheet(s) if	11:
15. Continuation Sheet(s) attached: Yes] No []	
16. Information requested through this form is euthorized by Title 31 U tild 31 U tild 352. This disclosure of lobbying activities is a material representation which reliance was placed by the tier above when this transact made or entered into. This disclosure is required pursuant to 31 U tild This information will be reported to the Congress semi-enrusity and available for public inspection. Any person who fails to file the required by subject to a civil panelty of not less than \$10,000 and not m \$100,000 for each such failure.	from of fact ton was Print N S C 1352. Will be Title:	ame: Jay Ftell ner
Federal Use Only:		Authorized for Local Reproduction Standard Form - 111

Standard Form LLL Rev 09-12-97

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

- 1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
- Identify the status of the covered Federal action.
- 3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
- 4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
- 5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
- 6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
- Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
- 8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
- 9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
- 10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influenced the covered Federal action.
- (b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
- 11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
- 12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
- 13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
- 14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
- 15. Check whether or not a continuation sheet(s) is attached.
- 16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev. (06-04-90)

	"Bidders Bund"
Accompanying thi	s proposal is
(NOTICE: INSE	RT THE WORDS "CASH(\$). "CASHIER'S CHECK," "CERTIFIED CHECK," OR "BIDDERS BOND," AS THE CASE MAY BE)
in amount equal to	o at least ten percent of the total of the bid.
The names of all	persons interested in the forgoing Proposal as principals are as follows:
IMPORTANT N incorporation, als also names of all	NOTICE: If the Bidder or other interested person is a corporation, state legal name of corporation and place of onames of the president, secretary, treasurer, and executive officer thereof; if a partnership, state name of partnership, onames of the president, secretary, treasurer, and executive officer thereof; if a partnership, state name of partnership, onames of the president, secretary, treasurer, and executive officer thereof; if a partnership, state name of partnership, onames of the president secretary treasurers; if Bidder or other interested person is an individual, state first and last names in full.
	The second secon
Licensed in accor	rdance with an act providing for the registration of Contractors,
License No	E69322 Classification(s)
	(A Copy of the afore-referenced license must be attached hereto.)
ADDENDA:	This Proposal is submitted with respect to the changes to the Contract included in addenda number
Undright	
	(Fill in addenda numbers if addenda have been received and insert, in this Proposal, any Proposal Pay Items and Bid Price Schedules that were received as part of the addenda)
complied with the Employment and signature on this America, that the and the Equal E Certification: all	e on this Proposal 1 certify, under penalty of perjury under the laws of the State of Cartonia, that the Bidder has a statements of Public Contract Code Sections 10162, 10232, and 10285.1 are true and correct and that the Bidder has the requirements of Sections 4104 of the Subletting and Subcontracting Fair Practices Act and of Section 8103 of the Fair he requirements of Sections 4104 of the Subletting and Subcontracting Fair Practices Act and of Section 8103 of the Fair he requirements of Sections 4104 of the Subletting and Subcontracting Fair Practices Act and of Section 8103 of the Fair he requirements of Sections 8103 of the Fair he requirements of Sections 8103 of the Fair he requirements of Section 8103 of the Fair he section 8103 of the Fair he requirements of Section 8103 of the Fair he requirem
article, or other	persons executing this Proposal on behalf of a corporation or partnership shall be prepared to demonstrate by resolution, persons executing this Proposal on behalf of a corporation or wise, that such person is or that such persons are appropriately authorized to act in these regards for such corporation or wise, that such person is or that such persons are appropriately authorized to act in these regards for such corporation or wise, that such person is or that such persons are appropriately authorized to demonstrated to the satisfaction of the Country of El Dorado.
If the signature	is by an agent other than an officer of a corporation or a member of a partnership, a power of a sirregular and it on behalf of his principal shall be submitted with the bid forms; otherwise, the bid may be disregarded as irregular and
The Bidder's declarations an	execution on the signature portion of this Proposal shall constitute an endorsement and execution of thuse affidavits, indications which are part of this Proposal.
Executed this	30 HA day of OCTUPER. 2008
	County, State of
	Date: 007 30 2008
	Sign
	Here
	Name and Title of Bidder Jay P Zoellna President Name of Firm Webpeniah Caristry truction
	Name of Firm Welleminh Cristrycton
	Matter of Little

END OF PROPOSAL

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of El Dorado DOT **Proposal** Page P-23

COUNTY OF EL DORADO

BIDDER'S BOND

this form MUST be used

KNOW ALL PEOPLE BY THESE PRESENTS, THAT WE
NEHEMIAH CONSTRUCTION, INC. , as PRINCIPAL,
SAFECO INSURANCE COMPANY OF AMERICA
as Surety are held and firmly bound unto the County of El Dorado, a political subdivision of the State of Califor (hereinafter referred to as "Obligee"), in the penal sum of TEN PERCENT (10%) OF THE AMOUNT OF TOTAL BID PRICE of the Principal above named, submitted by said Principal to the Obligee for the we described below, for the payment of which sum in tawful money of the United States, well and truly to be made the Obligee, we the Principal and Surety bind ourselves, our heirs, executors, administrators and successors, join and severally, firmly by these presents. In no case shall the liability of the Surety hereunder exceed the sum of
TEN PERCENT (10%) OF THE AMOUNT OF THE TOTAL BID PRICE
THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:
WHEREAS, the Principal has submitted the above-mentioned Bld to the Obligee, as aforesaid, for certic construction specifically described as follows, for which bids are to be opened at Placerville, El Dorado Court California, on October 30, 2008 for the construction of the
U.S. 50 HOV LANES PHASE 1 RL DORADO HILLS TO BASS LAKE GRADE CONTRACT NO. 53110
NOW, THEREFORE, if the aforesaid Principal is awarded the Contract and, within the time and manner require under the Contract Documents, after the prescribed forms are presented to it for signature, enters into a writte contract, in the prescribed form, in accordance with the Bid, and files two bonds with the Obligee, one to guarante faithful performance and the other to guarantee payment for labor and materials, as required by law, then the obligation shall be null and void; otherwise, it shall remain in full force and virtue.
In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all cost incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the Court.
IN WITNESS WHEREOF, we have set our hands and seals on this 24th day of OCTOBER 200
seal) NEHEMIAH CONSTRUCTION, INC.
Principa Principa
SAFECO_INSURANCE_COMPANY_OF_AMERICA
address: Surety
BETTY L. TOLENTINO, ATTORNEY-IN-FACT
1390 Willow Pass Road, Concord, CA 94520 (NOTE: Signature of those executing for the Surety shall be properly acknowledged, and accompanied by a Certificate of Acknowledgment.)

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

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County of El Durado DOT
Proposal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

	ACTORISTICA CONTRACTORISTICA CONTRACTORI
State of California	
County of San Francisco	}
On ^{October 24, 2008} before me,	Janet C. Rojo, Notary Public Here insert Name and Title of the Officer
personally appearedBetty L. Tol	lentino.
	Name(s) of Signer(s)
JANET C. ROJO COMM. #1596035 NOTARY PUBLIC-CALIFORNIA S SAN FRANCISCO COUNTY My Comm. Expires Aug. 18, 2009	who proved to me on the basis of satisfactory evidence be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me the he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the law of the State of California that the foregoing paragraph true and correct.
	WITNESS my hand and official seal.
Place Notary Seal Above	Signature ACC Signature of Notary Public
Though the information below is not required by law.	it may prove valuable to persons relying on the document reattachment of this form to another document.
Description of Attached Document	rounderment of this form to another document.
Title or Type of Document:	
	Number of Pages:
igner(s) Other Than Named Above:	
Capacity(ies) Claimed by Signer(s)	
igner's Name: Individual Corporate Officer — Title(s): Partner — ☐ Limited ☐ General Attorney in Fact Trustee Guardian or Conservator Other: gner Is Representing:	☐ Individual ☐ Corporate Officer — Title(s): ☐ Partner — ☐ Limited ☐ General ☐ Attorney in Fact
and to hope documents.	Signer is Hepresenting:



POWER OF ATTORNEY

Safeco Insurance Company of America General Insurance Company of America Safeco Plaza Seadle, WA 98185

KNOW ALL BY THESE PRESENTS:	No. <u>95</u>	32
That SAFECO INSURANCE COMPANY OF AMER Washington corporation, does each hereby appoint	RICA and GENERAL INSUR	ANCE COMPANY OF AMERICA, each
BETTY L TOLENTINO; ROBERT P. WRIXON; San Franc	HECKER; SWAN LEE; M. MOOD)Y; MAUREEN O'CONNELL: JANET C. ROJO;
its true and lawful attorney(s)-in-fact, with full authority documents of a similar character issued in the course of	to execute on its behalf fidelity fits business, and to bind the re	and surety bonds or undertakings and otherspective company thereby.
IN WITNESS WHEREOF, SAFECO INSURANCE (AMERICA have each executed and attested these p	COMPANY OF AMERICA an	d GENERAL INSURANCE COMPANY C
this 21st	day of March	, 2007
Alephanis Salley Potser	TAMIS	rolajewski.
STEPHANIE DALEY-WATSON, SECRETARY	TIM MIKOLAJEW	SKI, SENIOR VICE-PRESIDENT, SURETY
Extract from the By-Laws of and of GENERAL IN	CERTIFICATE SAFECO INSURANCE COMPI ISURANCE COMPANY OF AN	ANY OF AMERICA (ERICA:
"Article V, Section 13 FIDELITY AND SURETY BOND: President appointed for that purpose by the officer in characteristic attorneys-in-fact or under other appropriate titles with a other documents of similar character issued by the compauch appointment, the signatures may be affixed by fundertaking of the company, the seal, or a facsimile the provided, however, that the seal shall not be necessary to	arge or surety operations, shall uthority to execute on behalf of pany in the course of its busines casimile. On any instrument of the part of the par	each have authority to appoint individuals a if the company fidelity and surety bonds an ss On any instrument making or evidencin confering such authority or on any bond of
Extract from a Resolution of the Board of Dand of GENERAL INSURANCE	irectors of SAFECO INSURAN	CE COMPANY OF AMERICA
"On any certificate executed by the Secretary or an assis (i) The provisions of Article V, Section 13 of the I (ii) A copy of the power-of-attorney appointment (iii) Certifying that said power-of-attorney appoint the signature of the certifying officer may be by facsimile,	By-Laws, and , executed pursuant thereto, an ment is in full force and effect	d
I, Stephanie Oaley-Watson . Secretary of SAFECO INS COMPANY OF AMERICA, do hereby certify that the foreg of these corporations, and of a Power of Attorney issued p and the Power of Attorney are still in full force and effect.	URANCE COMPANY OF AME	ERICA and of GENERAL INSURANCE
IN WITNESS WHEREOF, I have hereunto set my hand	and affixed the facsimile seal	of said corporation
this 24th		CTOBER . 2008
STANCE COMPANY.		

STEPHANIE DALEY-WATSON, SECRETARY

TO WASHINGTO

ACKNOWLEDGMENT

State of California County of)				
On 10-30-08 be	fore me, _	DETER	Weccs.	NoTARY	Public
		(insert nar	ne and title o	of the officer)	
personally appearedwho proved to me on the basis of satis	Tay	20 FLINE	er.		
subscribed to the within instrument and his/her/their authorized capacity(ies), a person(s), or the entity upon behalf of volume of the certify under PENALTY OF PERJURY paragraph is true and correct.	which the p	his/bér/théir person(s) acte	signature(s) ed, executed	on the instrumer	nent the nt.
WITNESS my hand and official seal. Signature			9	PATER WEL Commission # 1 Motory Public - C Solono Com	1746390 E
Signature Turn		(Seal)			

PROPOSAL

(to be attached to and submitted with this bound Contract Document bid package)

TO: THE DEPARTMENT OF TRANSPORTATION, COUNTY OF EL DORADO, STATE OF CALIFORNIA

for the construction of

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE GRADE CONTRACT NO. 53110

NAME OF BIDDE	R GRANITE	CONSTRUCTION COMPANY
BUSINESS P.O. B	oxP. O. Bo	ox 50085
CITY, STATE, ZIF	Watsonvi	llle, CA 95077
BUSINESS STREE		585 W. Beach Street
		(Please include even if P.O. Box used)
CITY, STATE, ZIP		Watsonville, CA 95076
TELEPHONE NO:	AREA CODE ()831-724-1011
FAX NO:	AREA CODE (831-761-4021

The work for which this Proposal is submitted is for the construction in accordance with these Contract Documents (including the payment of not less than the State general prevailing wage rates or Federal minimum wage rates set forth herein), the Project Plans described below, including any addenda thereto, the Contract annexed hereto, and also in accordance with the California Department of Transportation Standard Plans, dated May 2006, the Standard Specifications, dated May 2006, Amendments to the May 2006 Standard Specifications, standard drawings from the Design and Improvement Standards Manual of the County of El Dorado, revised March 8, 1994 including Resolutions 199-91 and 58-94 to adopt changes to the Design and Improvement Standards Manual; the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished, and in accordance with the General Prevailing Wage rates. The Project Plans and Contract Documents for the work to be done are entitled:

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE CONTRACT NO. 53110

Bids are to be submitted for the entire work. The amount of the bid for comparison purposes will be the total of all the items.

The Bidder shall set forth for each unit basis item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.

In case of discrepancy between the item price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b), as follows:

- (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount as the entry in the item total column, then the amount set forth in the total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;
- (b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc., from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage wise the unit price or item total in the Department's Final Estimate of cost.

If this Proposal is accepted and the undersigned Bidder shall fail to enter into the Contract and furnish the two bonds in the sums required by the State Contract Act, with surety satisfaction to the County of El Dorado within eight (8) days, not including Sundays and legal holidays, after the Bidder has received notice from the County of El Dorado that the Contract has been awarded, the County of El Dorado may, at its option, determine that the Bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void and the forfeiture of such security accompanying this Proposal shall operate and the same shall be the property of the County of El Dorado.

The undersigned, as Bidder, declares under penalty of perjury under the laws of the State of California that the only persons or parties interested in this Proposal, as principals, are those named herein; that this Proposal is made without collusion with any other person, firm, or corporation; that it has carefully examined the location of the proposed work, the annexed proposed form of Contract, and the Plans therein referred to; and that it proposes, and agrees if this Proposal is accepted, that it will contract with the County of El Dorado, in the form of the copy of the Draft Contract annexed hereto, to provide all necessary machinery, tools, apparatus, and other means of construction, and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that it will take in full payment therefore the following item prices, to wit:

PROPOSAL PAY ITEMS AND BID PRICE SCHEDULE (ENGINEER'S ESTIMATE)

U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE GRADE CONTRACT NO. 53110

ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
1		070012	PROGRESS SCHEDULE (CRITICAL PATH METHOD)	LS	LUMP SUM	17,500 00	17,500 00
						7.90	35,63000
2		071325	TEMPORARY FENCE (TYPE ESA)	LF	5090		
3		074013	PROTECTION OF MIGRATORY BIRDS	LS	LUMP SUM	25,0000	25,000 20
4		074014	FURNISH FIELD OFFICE	LS	LUMP SUM -	40,000 00	40,000
5	(S)	074019	PREPARE STORM WATER POLLUTION PREVENTION PLAN	LS	LUMP SUM	5,000 24	5,000 00
6	(S)	074028	TEMPORARY FIBER ROLL	LF	43500	175	76,125 90
7	(S)	074029	TEMPORARY SILT FENCE	LF	4720	6 92	28,320 ⁹⁹
8	(S)	120090	CONSTRUCTION AREA SIGNS	LS		50,000=	50,000-200
9	(S)	120100	TRAFFIC CONTROL SYSTEM	LS	LUMP SUM	1,045,572	1,045,572
10	(S)	120120	TYPE III BARRICADE	EA	110	75 <u>9</u>	8,250 00
11	(S)	120130	TRAFFIC PLASTIC DRUM	EA	380	70°°	26,600 20
12	(S)	120149	TEMPORARY PAVEMENT MARKING (PAINT)	SQFT	210	100	21000
13	(S)	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	<u>L</u> F	67100	0. 25 0 25	16,775 00
14	(S)	120300	TEMPORARY PAVEMENT MARKER	EA	6890	2 <u>50</u>	17,22500
15	(S)	120165	CHANNELIZER (SURFACE MOUNTED)	EA	210	25.00	5,250.00
16	(S)	128650	PORTABLE CHANGEABLE MESSAGE SIGN	SWD	1980	70 ⁹⁴	138,600 00

ITEN	A NO.	CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (in Figures)	TOTAL PRICE (in Figures)
	<i>(</i> 0,	40000	TEMPORARY RAILING (TYPE K)	LF	71300	122	641,70000
17	(S)	129000	TEMPORARY RAILING (TYPE K)	LP	71300	225 00	51,750
18	(S)	129100	TEMPORARY CRASH CUSHION MODULE	EA	230		
19	(S)	129111	TEMPORARY CRASH CUSHION (ABSORB 350)	EA	9_	6,000 00	54,000-90
20	(S)	129150	TEMPORARY TRAFFIC SCREEN	LF	67300	3 90	201,900 00
gr jirin						40 90	3,200
21		150206	ABANDON CULVERT	LF	80		
						2,100 00	2,100 00
22		150221	ABANDON INLET	EA	1		1100 99
						2 50	1,425
23	(S)	150605	REMOVE FENCE	LF	570	6 30 DP	// /1/ OG
24	(S)	150662	REMOVE METAL BEAM GUARD RAILING	LF	2480	670	14.616
25	(S)	150669	REMOVE DOUBLE THRIE BEAM BARRIER	LF	8810	6 00	52,860 ºº
	(0)	450740	DELIGNE TRACEIO OTRIPE		70700	05	35,415
26	(S)	150710	REMOVE TRAFFIC STRIPE	LF	78700	2 00	1,26000
27	(S)	150713	REMOVE PAVEMENT MARKING	SQFT	630	_	
	(0)	N		1		0.33	4,575
28		150722	REMOVE PAVEMENT MARKER	EA	6100		
				(* * *)		80 000	3,28000
29		150742	REMOVE ROADSIDE SIGN	EA	41		
30		150760	REMOVE SIGN STRUCTURE	EA	4	3,525 <u>oo</u>	14,100 00
24		DLANK					
31		BLANK		 	 	0.35	7,910 00
32		150771	REMOVE ASPHALT CONCRETE DIKE	LF	22600		
33		150772	REMOVE CURB	LF	1270	10 00	12,700 00
						50 99	25,500 00
34		150806	REMOVE PIPE	LF	510		
35		150820	REMOVE INLET	EA	8	900 00	7,200

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 5

ITEN	A NO.	CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
	170			54	5	1,300 00	6,500
36		150823	REMOVE DOWNDRAIN	EA	3	50-00	10 000
37	(F)	150829	REMOVE RETAINING WALL	LF	378	50-	18,90000
38		150857	REMOVE ASPHALT CONCRETE SURFACING	SQFT	8140	112	8,954 9
39		150859	REMOVE ASPHALT CONCRETE OVERSIDE DRAIN	EA	13	850 2	11,050 00
4.0		450060	DEMOVE DASE AND SUDEACING	CY	1400	45 🥦	63,000 .00
41		150860 151572	REMOVE BASE AND SURFACING RECONSTRUCT METAL BEAM GUARD RAILING	LF	1760	1600	28,160 DE
42		152326	RESET TERMINAL SYSTEM	EA	11	1,000 00	1,00000
43		152 <u>642</u>	MODIFY SIGN STRUCTURE (SAFETY CABLE RETROFIT)	EA	2	8,0000	16,000 00
44	(S)	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	SQYD	176000	2.00	352,000 00
45	(S)	153235	CLEAN BRIDGE DECK	SQFT	8140	100	8,140
46		153239	REMOVE CONCRETE (CURB, GUTTER, AND SIDEWALK)	LF	590	13.00	10,03000
47		155003	CAP INLET	EA	1	1,200 00	1,200 00
48	12 4 43	156585	REMOVE CRASH CUSHION	EA	1	2,000	3,110 00 00
49		157550	BRIDGE REMOVAL	LS	LUMP SUM	17 82 08 246,000	246,000 30
50		157560	BRIDGE REMOVAL (PORTION)	LS	LUMP SUM	10,000 00	10,000
51		160101	CLEARING AND GRUBBING	LS	LUMP SUM	25,000 00	25,000 00
52	(F)	190101	ROADWAY EXCAVATION	CY	·· 63411	1700	1,077,9870
53	(F)	190102	BIOFILTRATION SWALE	LF	613	8 200	4,904,00
54	(S)	190110	LEAD COMPLIANCE PLAN	LS	LUMP SUM	2,500-00	2,500

U.S. 50 HOV Lanes Phase I Contract No. 53110 ADDENDUM NO. 5

County of El Dorado DOT
Proposal
P-5

ITE	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITÉ	PRICE (in Platfiel)	TOTAL PRICE (In Figures)
						750	750 SE
55	254	190113	ASBESTOS COMPLIANCE PLAN ASBESTOS CONTAINING MATERIAL	LS	LUMP SUM	2,500	2,500
56		190118	REMOVAL	LS	LUMP SUM		
57		190119	PREPARE FUGITIVE DUST PLAN	LS	LUMP SUM	2,500	2,500
					74	7700	1,010, 7020
58	(F)	190161	ROCK EXCAVATION	CY	13126	77	,,,,,,,
59	(F)	192003	STRUCTURE EXCAVATION (BRIDGE)	CY	8932	11000	982,520
60	(F)	192004	OW EVPANSION MATERIAL	OV.	5070	75.00	380,850 m
60		132004	LOW EXPANSION MATERIAL	CY	5078	. 60	
61	(F)	193003	STRUCTURE BACKFILL (BRIDGE)	CY	6489	2400	155,736°
<u> </u>		,,,,,,,,,,	STATE OF THE STATE	<u> </u>	<u> </u>	0.85	35,10500
62	(S)	203016	EROSION CONTROL (TYPE D)	SQYD	41300] ~ .	,,-,
63	(S)	203026	MOVE-IN/MOVE-OUT (EROSION CONTROL)	EA	8	50000	4,000
64		260201	CLASS 2 AGGREGATE BASE	CY	45500	38 <u>so</u>	1,761,750
65		390131	HOT MIX ASPHALT	TON	67600	560 40 AP 7/ 75	2,078,340 4,850,300
66		390138	RUBBERIZED HOT MIX ASPHALT (OPEN GRADED)	TON	16400	90 <u>75</u>	1,488,300
67		391031	PAVING ASPHALT (BINDER- PAVEMENT REINFORCING FABRIC)	TON	5	100	2 as
68	(P)	393001	PAVEMENT REINFORCING FABRIC	SQYD	3090	300	9,270-09
69		394073	PLACE HOT MIX ASPHALT DIKE (TYPE A)	LF	500	1 900	500 00
70		394074	PLACE HOT MIX ASPHALT DIKE (TYPE C)	LF	430	1.90	430 00
71 -		394075	PLACE HOT MIX ASPHALT DIKE (TYPE D)	LF	4680	1.00	4,680 00
72		394076	PLACE HOT MIX ASPHALT DIKE (TYPE E)	LF	17200	/ 002	17,200 90
73		394077	PLACE HOT MIX ASPHALT DIKE (TYPE F)	LF	800	/22	800 ºº

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 5 County of El Dorado DOT Proposal P-6

litie)	M NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT BRICE (In Flavor)	TOTAL PRICE (In Figures)
74		394090	PLACE HOT MIX ASPHALT (MISCELLANEOUS AREA)	SQYD	5950	16.00	111,200 99
75	(S-P)	490508	FURNISH STEEL PILING (HP 10 X 57)	LF	238	50-	11,900
76	(S)	490509	DRIVE STEEL PILE (HP 10 X 57)	EA	12	4,000 **	48,000
7 7	(S-P)	500001	PRESTRESSING CAST-IN-PLACE CONCRETE	LS	LUMP SUM	85,000	62,000 E
78	(F)	510051	STRUCTURAL CONCRETE, BRIDGE FOOTING	CY	1229	100 00	491,600 95
79	(F)	510053	STRUCTURAL CONCRETE, BRIDGE	CY	3149	64099	2,078,340
80	(F)	510086	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE N)	CY	533	745 00	386,425
81	(F)	510087	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE R)	CY	167	1,100,03	183,70000
82	(F)	510502	MINOR CONCRETE (MINOR STRUCTURE)	CY	141	1,300 99	183,300 98
83		510800	PAVING NOTCH EXTENSION	CY	4	4,000	16,000 00
84	(F)	511057	DRY STACK ROCK TEXTURE	SQFT	12199	1200	146,388 9
85		511106	DRILL AND BOND DOWEL	LF	787	5∞	3,135 00
86		511110	DRILL AND BOND DOWEL (CHEMICAL ADHESIVE)	EA	104	50 00	5,200
87	(S-P)	512226	FURNISH PRECAST PRESTRESSED CONCRETE BOX GIRDER (90'-100')	EA	48	25,000 00	1,200,000
88	(S)	512502	ERECT PRECAST PRESTRESSED CONCRETE BOX GIRDER	EA	48		240,000 90
89		519075	ROCK ANCHOR	LF	600	2500	/5,000 ⁰⁰
90		519087	JOINT SEAL (TYPE B-MR 2")	LF	360	80 oc	28,800-00
91	(S-P)	519101	JOINT SEAL (TYPE A)	LF	271	4500	12,19500
92	(S-F-P)	520102	BAR REINFORCING STEEL (BRIDGE)	LB	982112	0.20	785,689 <u>60</u>

ITEN	1 NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
						100	8,140
93	(S-F)	540102	TREAT BRIDGE DECK	SQFT	8140	<u> </u>	
- 50	19.7					9500	8,645 00
94	(S)	540108	FURNISH BRIDGE DECK TREATMENT MATERIAL	GAL	91	''	
			FURNISH SIGN STRUCTURE (BRIDGE MOUNTED WITH WALKWAY)	LB	2068	6 60	13,648 80
95	(F)	560203	INSTALL SIGN STRUCTURE		2000	40	
=			(BRIDGE MOUNTED WITH			200	4/3600
96	(F)	560204	WALKWAY)	LB	2068	UA	06
97	(F-P)	560218	FURNISH SIGN STRUCTURE (TRUSS)	LB	69400	5 40	374,760°
<u> </u>	- V · · / -	0000.0				25	17,35000
	ا رة جر	560210	INSTALL SIGN STRUCTURE (TRUSS)	LB	69400	0	1,,,,,,,,
98	(S-F)	560219	FURNISH SINGLE SHEET			00	1,800 00
			ALUMINUM SIGN (0.063"-		450	1200	1,800
99		560248	UNFRAMED) FURNISH SINGLE SHEET	SQFT	150		00
			ALUMINUM SIGN (0.080"-	ŀ		1500	13,650 00
100		560249	UNFRAMED)	SQFT	910		
101	(S)	561016	60" CAST-IN-DRILLED-HOLE CONCRETE PILE (SIGN FOUNDATION)	LF	95	1,30000	123,500
101	(3)	301010	I COMBATION)			400	7,850.00
			LIETAL (DADDIED MOLINITED CICAL)	1	1970	'	"
102		562002	METAL (BARRIER MOUNTED SIGN)	LB	1970	200 99	6,600
						200	1,000
103	(S)	566011	ROADSIDE SIGN - ONE POST	EA	33	500 50	0 00
1			30 N	1		>00-	3,000
104	(S)	566012	ROADSIDE SIGN - TWO POST	EA	6	<u> </u>	
105	(S)	566014	ROADSIDE SIGN (BRIDGE MOUNTED)	EA	2	7,00 pp 700 ⁹⁹	1900 क्ष
	\ <u>`</u>					15000	513,000 00
106	(P)	650018	24" REINFORCED CONCRETE PIPE	LF	3420		
100	157	030010	LT TILITI ONOLD GONOTLICT II L	 		400 20	60,000
107	(P)	650026	36" REINFORCED CONCRETE PIPE	LF	150		
107	(~)	030020	TENT ONCE OUTOR TE FIFE		1	100 90	41,000
108	(P)	665716	18" SLOTTED CORRUGATED STEEL PIPE (.064" THICK)	LF	210		
100	(P)	665036	36" CORRUGATED STEEL PIPE (.079" THICK)	LF	8	450 00	3,600
109	17)	003030	THON			86 20	3,440 00
110	(P)	690111	12" CORRUGATED STEEL PIPE DOWNDRAIN (.064" THICK)	LF	40		
1		333.7.				94 90	16,920
111	(P)	690116	18" CORRUGATED STEEL PIPE DOWNDRAIN (.064" THICK)	LF	180		<u> </u>

ITEM	1 NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
112	(P)	690123	24" CORRUGATED STEEL PIPE DOWNDRAIN (.079" THICK)	LF	130	110 90	14,300 00
113	(P)	690131	30" CORRUGATED STEEL PIPE DOWNDRAIN (.079" THICK)	LF	16	120 90	1,9209
				EA	3	850 28	2,550 PM
114	(P)	692005	12" ENTRANCE TAPER			950	3,800
115	(P)	692007	18" ENTRANCE TAPER	<u>EA</u>	4	900 00	900 50
116	(P)	692207	18" DOWNDRAIN SLIP JOINT	EA	1	2709	2,430 00
117	(P)	692305	12" ANCHOR ASSEMBLY	EA	9	280 99	7,840==
118	(P)	692307	18" ANCHOR ASSEMBLY	EA	28	290 90	3,770 22
119	(P)	692309	24" ANCHOR ASSEMBLY	EA	13	350 20	700 50
120		692311	30" ANCHOR ASSEMBLY	EA	2		
121	(P)	705007	12" STEEL FLARED END SECTION	EA	3	700 99	2,100 00
122	(P)	705011	18" STEEL FLARED END SECTION	EA	3	750 98	2,250 00
	(P)	705015	24" STEEL FLARED END SECTION	EA	5	770 00	3,850.9
123			30° STEEL FLARED END SECTION	EA	1	900 <u>aa</u>	900 00
124	(P)	705019	24" CONCRETE FLARED END			1,000-00	1,000 00
125	(P)	705206	48° PRECAST CONCRETE PIPE	EA	1	4,000	44,000 00
126		707225	ROCK SLOPE PROTECTION (1/4	EA	11	120 99	84,000 00
127		721007	TON, METHOD B) ROCK SLOPE PROTECTION (LIGHT,	CY	700	90 00	79,200 00
128		721008	METHOD B) ROCK SLOPE PROTECTION	CY	880	250 50	22,500 00
129	-	721010	(BACKING NO. 1, METHOD B)	CY	90	100	3,930 20
130	(P)	729010	ROCK SLOPE PROTECTION FABRIC	SQYD	3930		1,1,50

ITEM	1 NO.			UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
			WINDS CONCRETE (OURS AND			900	30,600
101		731504	MINOR CONCRETE (CURB AND GUTTER)	CY	34		
131		731304	GOTTEN			60 00	34,200
			ANNOR CONCRETE (SIDEMALK)	CY	570		
132		731521	MINOR CONCRETE (SIDEWALK)		3.0	600 00	126,000
			MINOR CONCRETE (TEXTURED	l	010		
133		731530	PAVING)	CY	210	60	24444
						150	34,402
134	(S-F-P)	750001	MISCELLANEOUS IRON AND STEEL	LB	22935	1999	10,830
						111-	10,830
135	(P)	800320	CHAIN LINK FENCE (TYPE CL-4)	LF	570		
			CONCRETE BARRIER DELINEATOR		in the	4000	16000
136		820106	(16 INCH)	EA	4		
100		- "			1 = 11	3000	1,500
107]	820107	DELINEATOR (CLASS 1)	EA	50		2007
137		020107	DECINEATON (OD OS 1)		7	3090	510-00
			CHARD DAWING DELINEATOR	EA	17		e e galij
138		820118	GUARD RAILING DELINEATOR			4000	480
						10	100
139		820151	OBJECT MARKER (TYPE L-1)	EA	12	40	00 700
			METAL BEAM GUARD RAILING			24 40	89,7920
140	(S-P)	832003	(WOOD POST)	LF-	3680	2	- 04
			VEGETATION CONTROL (MINOR		11,12,5	2500	61,500
141		832070	CONCRETE)	SQYD	2460	100/100	
				23	High the second	55 00	33,000
142		833080 -	CONCRETE BARRIER (TYPE K)	LF	600		
176	1	000000			ne ∫s	170 20	S/100 00
140	(6)	839311	DOUBLE THRIE BEAM BARRIER (WOOD POST)	LF	30		- //
143	(S)	639311	(WOOD COI)	L FR		60 00	3,240
			CARLE DAN INC	LF	54	00	2,240
144	(F)	839521	CABLE RAILING	172	ege at 100 and		36,000
					8, 1	4,50000	30,000
145	(S-P)	839541	TRANSITION RAILING (TYPE WB)	EA	8		
			END ANCHOR ASSEMBLY (TYPE			70000	3,500
146	(S-P)	839581	SFT)	EA	5	51	3.5
		79	ALTERNATIVE IN-LINE TERMINAL	17	- ×	3,000 00	6,000
147	(S-P)	839584	SYSTEM	EA	2	1	
	15	1 1 1 1 1 1 1 1	ALTERNATIVE FLARED TERMINAL			2500	20,000
148	(S-P)	839585	SYSTEM	EA	8	2,500	
170	13.1		22 V			6,600 0	6,600 00
				EA			

ITEM	I NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (In Figures)	TOTAL PRICE (In Figures)
						750000	7,50000
150	(P)	839601	CRASH CUSHION (TYPE CAT)	EA	11	<u> </u>	
151	(P)	839602	CRASH CUSHION (TYPE CAT) BACKUP	EA	1	35000	350 °°
			CRASH CUSHION (WIDETRACC)	EA	1	26,500 00	26,500
152	(S-P)	839606	CHASH COSHION (WIDE MACO)	<u> </u>		20,500	20,500
153	(S-P)	839607_	CRASH CUSHION (SHORTRACC)	EA	11		
					5160	4000	2 6 6,400 ⁹⁶
154		839701	CONCRETE BARRIER (TYPE 60)	LF	3160	. 00	22,3600
155	(F)	839702	CONCRETE BARRIER (TYPE 60A MOD)	LF	430	52 <u>00</u>	22,560
					1000	4300	181,8900
156		839703	CONCRETE BARRIER (TYPE 60C)	LF	4230	60	22,260
157		839704	CONCRETE BARRIER (TYPE 60D)	LF	420	5300	
10.						21600	54,000
158		839705	CONCRETE BARRIER (TYPE 60E)	LF	250		
159		839727	CONCRETE BARRIER (TYPE 736 MODIFIED)	LF	1129	12000	135,480 00
		#	CONCRETE BARRIER (TYPE 60 MOD)	LF.	130	133 00	17,29000
160		839741	CONCRETE BARRIER (TYPE 60D		1	10900	14,17000
161		839742	MOD)	LF	130	1	
400		839743	CONCRETE BARRIER (TYPE 60R)	LF	80	275 00	22,000 99
162		639743	CONCILE E BATTELL (1 1 2 000)			0 50	78,000000
163	(S)	840501	THERMOPLASTIC TRAFFIC STRIPE	LF	156000		
			THERMOPLASTIC PAVEMENT			3 50	5,21500
164	(S)	840515	MARKING	SQFT	1490	045	- 09
165	(S)	840653	PAINT TRAFFIC STRIPE	LF	157000		70,650
103	1 3	<u> </u>				220	3,52000
166	(S)	840660	PAINT PAVEMENT MARKING	SQFT	1760		1
			PAVEMENT MARKER (NON-	EA	10400	3 %	39,000 00
167	(S-P)	850101	REFLECTIVE)	<u></u>		460	33,442
168	(S-P)	850111	PAVEMENT MARKER (RETROREFLECTIVE)	EA	7270	<u> </u>	<u></u>

	i ii n				TG.	30.50	6,60000
69	J10000 - 18240 - A	850114	CONCRETE BARRIER MARKER	EA	220		
170	(S)	860251	SIGNAL AND LIGHTING (LOCATION	LS	LUMP SUM	80,000 00	80,000 00
171	(S)	860252	SIGNAL AND LIGHTING (LOCATION 2)	LS	LUMP SUM	56,000 00	
172	(S)	860298	SIGNAL AND LIGHTING (STAGE CONSTRUCTION)	LS	LUMP SUM	19,000 00	19,00000
173	(S)	860299	OVERHEIGHT VEHICLE DETECTION SYSTEM	LS	LUMP SUM	195,000	195,000
174	154	860316	WIRELESS VEHICLE DETECTION SYSTEM	LS	LUMP SUM	30,000 00	30,000 00
175	(S)	860415	LIGHTING AND SIGN ILLUMINATION (STAGE CONSTRUCTION)	LS	LUMP SUM	55,000 00	1
178	(S)	860460	LIGHTING AND SIGN ILLUMINATION	LS	LUMP SUM	96,000 20	96,000
177	(S)	860461	LIGHTING (CITY STREET)	LS	LUMP SUM	73,000	73,000
178	(S)	860462	LIGHTING (CITY STREET) (LOCATION 2)	L\$	LUMP SUM	20,000	
179	15/		TRENCH AND EXCAVATION SAFETY	L\$	LUMP SUM	2,800 00	2,000 30
180		999990	MOBILIZATION	LS	LUMP SUM		2,763,00 11, 39 4 ^{9<u>0</u>.}

(F) Final Pay Quantity
(S) Specialty Item
(P) Item Eligible for Partial Payment
(LS) Lump Sum
(SWD) Sign working day

(NOTICE: Bidder's failure to execute the questionnaires and statements contained in this Proposal as required by applicable laws and regulations, or the determinations by El Dorado County based upon those questionnaires and statements, may prohibit award of the subject Contract to the Bidder.)

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 ADDENDUM NO. 1

County of El Dorado DOT Proposal P-12

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of Federal Regulations. USE THIS FORM TO LIST ONLY SUBCONTRACTORS THAT WILL WORK ON THIS PROJECT (Use "BIDDER'S LIST OF SUBCONTRACTORS [DBE and NON-DBE]. PART II" form for subcontractors who submitted a quote or bid but were not selected to participate on this project). Photocopy this form to list additional firms and attach the additional sheets to this page.

	The second secon			
Firm Name & CSLB License #/	Phone/	Annaal	December of & Percentage of Work to be	Local Agency Use Only
Address/	Fax Numbers	Gross	Performed	(Certified DBE2)
City, State, Lir		T		Chans
Name & CSLB License Number	Phone	PAC SI IMILION	Fende - Paction	3
Super Fearle COSS FF	120 463	O < \$5 million	32	
Address	李	0 < \$10 milbon		A LES CALLES
	Far	< \$15 million		
City Same ZIP	120 th	> \$15 milhon		Appel (tra) (tra)
topos whiten the me	2430			
Name & CSLB License Number 4999 2116		O < \$1 million	45011 100%	
Conserve or an	216 686	C < S million	O	9
Address	8860	A STOREGE	بروابال مراع عوا	TIME TO BE
	Parent Large	大学を記事を		
1	200 000	- \$15 milion		Apped Stan (Sta.)
EIL Grove UM	7568			
Manse & SLE License Number 594176	Phone	< \$1 million	Charles Partial 40%	SEC
Internale Excausation	10+ 6+8	Z < \$5 million		
Address	2541	< \$10 million		N TOWN DESCRIPTION OF THE PARTY
	Fax	U < \$15 million		
Chy State IIP	1 707 CT	1 > \$15 endition		Aced Fire (Tr)
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Name & CALS License Number	Phone	C < \$1 million	Fromon Courtrel Section	2 SEC
50, MAT 500 JOHN 5%	845 ous	A < St unificon	Hudrovedine no %	20
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	Par	< \$15 million		
City Space ZIP	+ 48 050	> \$15 million		Age of Hem. (Tre.)
Legar Ct	2169			

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U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of El Dorado DOT Proposal Page P-13

The bidder shall list all subcontractors (both DBB and non-DBB) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of SUBCONTRACTORS (DBB and NON-DBE)- PART II" form for subcontractors who submitted a quote or bid but were not selected to participate on this project). Poderal Regulation. USE THIS PORM TO LIST ONLY SUBCONTRACTORS THAT WILL WORK ON THIS PROJECT (Use: "BIDDER'S LIST OF Photocopy this form to list additional firms and attach the additional cheets to this page.

			~	
Firm Name & CSLB License #/ Address City, State, ZIP	Phone/ Fax Numbers	Annual Gross Receipts	Description of & Percentage of Work to be Performed	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1
	Plone	Set Tuttion	Lence - Paction	
44.8800	630 462	0 < \$5 million	44	があると言うながら
Address	1966	C < \$10 and bon		
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Chy Sinte IIP	130 th	> \$15 million		(P)
topat tolker 6th me	0130	A Company of the State of		William College College
19 2Wh	Phone	O < \$1 million	45001 100%	
-	980 976	D < \$5 indilion	3	
Adbear	8860	Tree le	902 - (B.m. 11, p.m.	
	Paren Cale	本なる古典		
1	The second	40EE# 513 < []		
Ell brown CA	7868	1		Section 1 and 1 an
Mane & CSLB License Number 644176	Phone	C < \$1 million	Clear & Grisb Partial 45%	2
Tribungle Excavation	tot ets	N < 5 million		
Address	2344	1 < \$10 unilion		
	PE	< \$15 milion		
Chy State ZIP	849 tot	10 > \$15 million		
DERON CE	8625			SALE CO.
Nume & CALP License Humber	From	O < \$1 million	Extraction Control 260-26	
85 JEHE 105 LOUIS	845 oas	M<55 million		7
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PER ADDENDUM NO.3 WILL BE TURNED IN WITHIN 24 HRS OF BID DATE

The baster shall list all subcontractors who provided a quote or bid but were not refected to participate as a subcontractor on this project on this form. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form to list additional firms and attach the additional sheets to this page.

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(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The	bidder GRANITE CONSTRUCTION COMPANY, proposed subcontractor							
	, hereby certifies that he has X, has not,							
partici	pated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive							
Orders	s 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of							
the Of	ffice of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former							
Presid	ent's Committee on Equal Employment Opportunity, all reports due under the applicable filling requirements.							
Note:	The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts, which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts of subcontracts of \$10,000 or under are exempt.)							
	Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.							
Execu contra specif	sed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the tive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of cts and subcontracts unless such contractor submits a report covering the delinquent period or such other period by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. timent of Labor.							

Public Contract Code Section 10285.1 Statement

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the Bidder hereby declares under penalty of perjury under the laws of the State of California that the Bidder has ______, has not $\frac{X}{X}$ been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "Bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The Bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of El Dorado DOT
Proposal
Page P-16

Public Contract Code Section 10162 Questionnaire

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes ____ No X

If the answer is yes, explain the circumstances in the following space.

N/A

Public Contract Code Section 10232 Statement

In conformance with Public Contract Code Section 10232, the Bidder, hereby states under penalty of perjury under the laws of the State of California, that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against the Bidder within the immediately preceding two year period because of the Bidder's failure to comply with an order of a Federal Court which orders the Bidder to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of Ei Dorado DOT
Proposal
Page P-17

NONCOLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the Bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the Contract of anyone interested in the proposed Contract; that all statements contained in the bid are true; and, further, that the Bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

NOTE:

The above Noncollusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Noncollusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, or manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any
 Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent
 jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

None

Exceptions will not necessarily result in denial of award, but will be considered in determining Bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

N/A

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008 County of El Dorado DOT
Proposal
Page P-19

NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- No federal or state appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal or state agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or an employee of a Member of the Legislature or Congress in connection with the awarding of any state or federal contract, including this Contract, the making of any federal grant, the making of any state or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative contract.
- If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Contract, grant, local, or cooperative contract, the Bidder shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with the form instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder also agrees by submitting its bid or Proposal that it shall require that the language of this certification be included in all of its subcontracts which exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly. If the Bidder is awarded this Contract, it shall ensure that all subcontractors submit certifications regarding federal lobbying activities as required by Section 1352, Title 31, United States Code and that all such certifications are made a part of any subcontracts entered into as a result of this Contract.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Complete this it	irm to disclose leadying	activities pursuant to 3	51 U.S.C. 1332			
1. Type of Federal Action: e. contract b. grant c. cooperative agreement d. loan e. loen guarantee f. loen insurance	e contract b grant c cooperative agreement d loan e loen guarantee a bid/offer/application b. initial award c. post-award For Meterial Change Only: year quarter					
4. Name and Adress of Reporting Entity: Prime Subawarder Tier Congressional District, if known:	, if known	If Reporting Entity in No. 4 is Subawardee. Enter Name and Address of Prime: Congressional District, if known:				
6. Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable				
8. Federal Action Number, if known:		9. Award Amount	t, if known:			
10. a. Name and Address of Lobbying Ent (if individual, last name, first name, M	y):	b. Individuals Perf different from I (last name, firs n Sheet(s) if necessary	st neme, Mt):			
11. Amount of Payment (check all that app	• •	a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other, specify:				
12. Form of Payment (check all that apply) a. cash b. in-kind; specify: nature value						
14. Brief Description of Services Performe employee(s), or member(s) contacted			e, including officer(s),			
	attach Continuation Sh	eet(s) if necessary)				
15. Continuation Sheet(s) attached:	Yee No					
16. Information requested through this form is authorized to 1352. This disclosure of lobbying ectivities is a materia upon which reliance was placed by the lier above wher made or entered into. This disclosure is required purst. This information will be reported to the Congress semi-evailable for public inspection. Any person who fails to shall be subject to a civil penelty of not less than \$10.0 \$100.000 for each such feiture.	It representation of fact this transection was this to 31 U.S.C. 1352. ennuelly end will be file the required disclosure	Print Name:	Date:			
Federal Use Only:			Authorized for Local Reproduction Standard Form - 111			

Standard Form LLL Rev. 09-12-97

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

- 1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
- 2. Identify the status of the covered Federal action.
- 3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
- 4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
- 5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
- 6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
- 7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
- 8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
- 9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
- 10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influenced the covered Federal action.
- (b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
- 11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
- 12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
- 13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
- 14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
- 15. Check whether or not a continuation sheet(s) is attached.
- 16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Insertations Rev 08-04-90

Accompanying this proposal is Bidder s Bond
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
(NOTICE: INSERT THE WORDS "CASH(\$), "CASHIER'S CHECK," "CERTIFIED CHECK," OR "BIDDERS BOND," AS THE CASE MAY BE)
in amount equal to at least ten percent of the total of the bid.
The numes of all persons interested in the forgoing Proposal as principals are as follows:
IMPORTANT NOTICE: If the Bidder or other interested person is a corporation, state legal name of corporation and place of incorporation, also names of the president, secretary, treasurer, and executive officer thereof; if a partnership, state name of partnership, also names of all individual partners; if Bidder or other interested person is an individual, state first and last names in full. GRANITE CONSTRUCTION COMPANY, Incorporated in the State of California
William G. Dorey, President & CEO Jigisha Desai, Treasurer
Michael Futch, Secretary
Licensed in accordance with an act providing for the registration of Contractors,
A See attached conv of license
License No. Classification(s)
County of El Dorado Business License No. 1985-004625 - See attached copy of (A Copy of the afore-referenced license must be attached hereto.) Business License
ADDENDA: This Proposal is submitted with respect to the changes to the Contract included in addenda number (s) One (1), Two (2), Three (3), Four (4), Five (5)
(Fill in addenda numbers if addenda have been received and insert, in this Proposal, any Proposal Pay Items and Bid Price Schedules that were received as part of the addenda)
complied with the requirements of Sections 4104 of the Subletting and Subcontracting Fair Practices Act and of Section 8103 of the Fair Employment and Housing Commission Regulations (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations). By my signature on this Proposal I further certify, under penalty of perjury under the laws of the State of California and the United States of America, that the Noncollusion Affidavit required by Title 23 United States Code, Section 112 and Public Contract Code Section 7106; and the Equal Employment Opportunity Certification; and the Title 49, Code of Federal Regulations, Part 29 Debarment and Suspension Certification; and the Non-lobbying Certification for Federal-Aid Contracts and the Disclosure of Lobbying Activities (Standard Form LLL); are true and correct. The person or persons executing this Proposal on behalf of a corporation or partnership shall be prepared to demonstrate by resolution, article, or otherwise, that such person is or that such persons are appropriately authorized to act in these regards for such corporation or partnership. Such authority shall be demonstrated to the satisfaction of the County of El Dorado. If the signature is by an agent other than an officer of a corporation or a member of a partnership, a power of attorney authorizing said act by the agent on behalf of his principal shall be submitted with the bid forms; otherwise, the bid may be disregarded as irregular and unauthorized.
The Bidder's execution on the signature portion of this Proposal shall constitute an endorsement and execution of those affidavits,
declarations and certifications which are part of this Proposal.
Executed this day of, 2008
Santa Cruz County, State of California
10/30/08
Date:GRANITE CONSTRUCTION COMPANY
GRANITE CONSTRUCTION CONTANT
Sign
Here Jigisha Desai
Name and Title of Bidder Vice President
Name of Firm GRANITE CONSTRUCTION COMPANY

END OF PROPOSAL

U.S. 50 HOV Lanes Phase I Contract No. 53110 Aspension 24, 2008 County of El Dorado DOT Proposal Page P-23

CONTRACTORS STATE LICENSE BOARD ACTIVE LICENSE State Of California



CORP

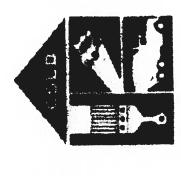
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GRANITE CONSTRUCTION COMPANY Business Name

Characteristics (4)

C36 C10 A B C57 C-2 C-8 C12 C21 C27 C29 C35 C42 C45 C39 C50 C51 HAZ C31

Exercise 05/31/2009



County of Fil Borado BUSINESS LICENSE

INDMIDOAL	PARTNERSHIP	CORPORATION
	.1	XXX

C. L. RAFFETY, C.P.A. TREASURER AND TAX COLLECTOR 360 FAIR LANE PLACERVELE. CALIF. 95667-4197 (530) 621-5800 Placerville (530) 573-3011 South Lake Tahoe	County of Fil Box BUSINESS LICENSE ORDINANCE 3515	ឌល់ជ Busin Licens	ess se No ₁ 985-00462
		· Nomoque (TINERSHIP TOORPOPATION
Business Name GRANITE	CONSTRUCTION COMPANY		
Mailing Address P 0 BOX		Phone (9	16) 855-4400
Type of Business	TOR - GENERAL		
Business Street Location 400	1 BRADSHAW ROAD		
Business Owners (Attach list of additional owners, partners or corporate officers) DOREY, WILLIAM	Contractor's License Number Signature of Owner		
	Date	.,	
The person, partnership or corporation above area of the County of El Dorado, California period indicated. Granting of this license d	re named is hereby granted a license to eng a the business, trade, calling, profession, one not entitle the licensee to operate or	page in, carry on or condu exhibition or occupation maintain a business in vi	ct in the unincorporated described above for the cistion of any other law
or ordinance.	XPPLICATION DATE	EXPRESSION DATE:	FEEPAD
POST IN A CONSPICUOUS PLACE	04-24-1986	04-01-2009	\$32.00
NOTE: No business license issued for any itingrant but	Sounty		
inal be valid unless accompanied by an El Dorado C tinerant Business Permit issued by the Shertiff of El D County.	BV	c.	L. RAFFETY

COUNTY OF EL DORADO

BIDDER'S BOND

this form MUST be used

	THESE PRESENTS, THAT WE	- DDINCIDAL and
GRANITE CONSTR	UCTION COMPANY	, as PRINCIPAL, and
Federal Insura	nce Company	
(hereinafter referred to as "O TOTAL BID PRICE of the described below, for the pays the Obligee, we the Principal	bound unto the County of El Dorado, a political subdivisuabligee"), in the penal sum of TEN PERCENT (10%) Of the Principal above named, submitted by said Principal ment of which sum in lawful money of the United States, I and Surety bind ourselves, our heirs, executors, administration of the Surety hereuses. In no case shall the liability of the Surety hereuses.	F THE AMOUNT OF THE to the Obligee for the work well and truly to be made to trators and successors, jointly
TEN PE	RCENT (10%) OF THE AMOUNT OF THE TOTAL	BID PRICE
THE CONDITION OF TH	IS OBLIGATION IS SUCH, THAT:	
construction specifically des	has submitted the above-mentioned Bid to the Oblig cribed as follows, for which bids are to be opened at Pl 008 for the construction of the	ee, as aforesaid, for certain acerville, El Dorado County,
	U.S. 50 HOV LANES PHASE 1 EL DORADO HILLS TO BASS LAKE GRADE CONTRACT NO. 53110	
under the Contract Documes contract, in the prescribed fo faithful performance and the obligation shall be null and v	e aforesaid Principal is awarded the Contract and, within nts, after the prescribed forms are presented to it for signm, in accordance with the Bid, and files two bonds with e other to guarantee payment for labor and materials, a oid; otherwise, it shall remain in full force and virtue.	the Obligee, one to guarantee is required by law, then this the Surety shall pay all costs
•	ch suit, including a reasonable attorney's fee to be fixed by we have set our hands and seals on this day of	
IN WITNESS WHEREOF,	we have set our nations and seats on this day or	20
(seal)	GRANITE CONSTRUCTION COMPANY	Principal
	By: Jigisha Desái, Vice Pro	
(seal)	Federal Insurance Company	
Address:	15 Mountain View Road, Warren, By:	New Jersey 070 Surety
	John D. Gilliland, Attorney-in-	-Fact
(NOTE: Sig	nature of those executing for the Surety shall be p by a Certificate of Acknowledgment.)	properly acknowledged, and

SEE ATTACHED ACKNOWLEDGEMENT AND POWER OF ATTORNEY FOR SURETY (#502)

U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

County of El Dorado DOT

Proposal

ale of California	
Santa Cruz	}
	Renee P. Ursino, Notary Public
Date	Here Insert Name and Title of the Officer
nannally appeared	John D. Gilliland Name(s) of Signer(s)
	Attorney-in-Fact
	who proved to me on the basis of satisfactory evidence
	be the person(a) whose name(a) is/ace subscribed to the
	within instrument and acknowledged to me th
	he/she/thay executed the same in his/het/their authorize
	capacity(ise), and that by his/her/their signature(s) on the
NEATE FORSIAO	instrument the person(x), or the entity upon behalf which the person(x) acted, executed the instrument.
Fragge Public - California	which the personality acted, executed the mandifical
bon tablea County	I certify under PENALTY OF PERJURY under the law
🧞 ққ синт. Expires Jun 5, 2010	of the State of California that the foregoing paragraph
	true and correct.
	MUTATION with and and affiliation
	WITNESS my hand and official seal.
	Signature Albaian
Place Notary Seel Above	Signature Signature of Notary Public Renee P. Ursin
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Manani Dale: Ma	Number of Pages: Signer's Name:
Section Other Than Named Above:	Signer's Name: Individual Corporate Officer — Title(s);
Turners Date: Continued Date: Continued Description Continued Descripti	Signer's Name: Individual Corporate Officer — Title(s); Partner — Limited General
Parties Officer — Title(s): Partner — () Limited I General	Signer's Name: Individual Corporate Officer — Title(s): Partner — Limited General Partner — Attorney in Fact RIGHT THUMBPRIN OF SIGNER OF SIGNER
Parties Officer — Title(s): Partner — () Limited I.] General Abuney in Fact Title(s)	Signer's Name: Individual Corporate Officer — Title(s); Partner — Limited General Attorney in Fact Number of Pages: Signer's Name: General RIGHT THUMBPRINT OF SIGNER
Post(a) Other Than Named Above: Sectivities) Claimed by Signer(s) Post Name: Post Name:	Signer's Name: Individual Corporate Officer — Title(s); Partner — Limited General Fight Attorney in Fact Trustee Number of Pages: RIGHT THUMDPRIM OF SIGNER Top of thumb here
Control Date: Control Date:	Signer's Name:
Parties Officer — Title(s): Partner — () Limited I General	Signer's Name:
Control Conservator	Signer's Name:

published: Cross Control Contr



Chubb Surety

POWER OF **ATTORNEY** Federal Insurance Company Vigilant Insurance Company **Pacific Indemnity Company**

Attn: Surety Department 15 Mountain View Road Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Jigisha Desai, John D. Gilliand and Ananya Mukherjee of Watsonville, California

each as their true and lewful Attorney- In- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bell bonds) given or executed in the course of business on behalf. Granite Construction incorporated and all Subsidiaries alone or in joint venture.

in connection with bids, proposals or contracts to or with the United States of America, any State or political subdivision thereof or any person, firm or corporation. And the execution of such bond or obligation by such Attorney- in- Fact in the Company's name and on its behalf as surety thereon or otherwise, under its corporate seal, in pursuance of the authority hereby conferred shall, upon delivery thereof, be valid and binding upon the Company.

in Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMINITY COMPANY have each executed and attested these presents and affitted their corporate seets on this 6" day of November, 2007.

th C. Wendel A

STATE OF NEW JERSEY

Norte, Jr., Vige Br

County of Somerset

On this. 6th day of November, 2007 before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kanneth C. Wendel, being by me duly swom, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporates seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by Bics authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent's presence.

Notarial Seal



KATHERINE KALBACHER NOTARY PUBLIC OF NEW JERSEY No. 2316685 Commission Expires July 8, 2009

Cuty Jestren

CERTIFICATION

& ATRACT From the By- Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facelinite to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys- in-Fact for purposes only of executing and attesting bands and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facelinite seal shall be valid and binding upon the Company and any such power or executed and certified by such facetimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C, Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

(i) the foregoing extract of the By- Laws of the Companies is true and correct,

the Companies are duly licensed and authorized to transact surely business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Tressury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guarr, and sech of the Provinces of Canada except Prince Edward island; and

(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

under my hand and seals of said Companies at Warren, NJ this

10/23/08







el, Assistant Secretary

IN THE PVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE TONIACI UN AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903-3493 Fax (908) 903- 3656 e-mail: surety@ chubb.com

A 16 STAND U (Nov. 10-02) CORP CONSENT

ATTACHMENT 3
OCTOBER 30, 2008 FAX CONTAINING THE BID RESULTS FOR
U.S. 50 HOV LANES, PHASE 1 - EL DORADO HILLS TO BASS
LAKE GRADE PROJECT (JN 53110)

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



El Dorado Hills Office: 4505 Golden Foothill Pwky El Dorado Hills, CA 96762 Phone: (916) 358-3650 Fax: (916) 941-8910

RICHARD W. SHEPARD, P.E. Director of Transportation

Internet Web Site: http://co.el-dorado.ca.us/dot

MAIN OFFICE: 2850 Fairlane Court Placerville CA 95667

Phone: (530) 621-5900 Fax: (530) 626-0387



FAX

То:					Pat Lo 58-355			801
Fax:				Pages	: 1			
Phone:				Date:	10/30	/08		
El Dora	50 HOV Lan do Hills to B #53110 Bid	ass lak	(e	CC:				
☐ Urgent	☐ for Review	☐ Pleas	e Comn	nent 🗆	Please Re	ply [☐ Please Re	cycle
	sults for the US de, Project 531							
	Nehemiah Co	onstructio	on, Inc.			\$26	6,125,135.6	iO
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	Granite Cons Teichert Cons De Silva Gate	struction				\$28	7,641,394.9 3,032,584.5),031,175.6	5

All proposals will be reviewed for compliance with bidding requirements by the Department of Transportation and County Counsel. With concurrence from County Counsel, the Department of Transportation will recommend the lowest responsive, responsible bidder to the Board of Supervisors. The decision to award the bid based on the recommendation is the sole responsibility of the Board of Supervisors.

ATTACHMENT 4
BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)
PART II FORMS
FOR U.S. 50 HOV LANES, PHASE 1 – EL DORADO HILLS TO
BASS LAKE GRADE PROJECT (JN 53110)



Received @ Bldg C C 1:50 pm 10/31/08 SACRAMENTO DISTRICT 8811 Kiefer Boulevard P.O. Box 15144 Sacramento, CA 95851-0144 (916) 386-6800 FAX (916) 386-2392

DATE: October 31, 2008

TO: El Dorado County Dept. Of Transportation

330 Fair Lane Placerville, CA

RE: Contract No. 53110; Caltrans Project No. 03-387114; Federal Aid Project No. STPCMLN-5925 (059)

Bidder's List Of Subcontractors (DBE and Non-DBE) - Part II

\boxtimes	We enclos	e herewith	*8		
	Forward to	us immediately			
	1	Copies of the following			
	Contract A	greement	☐ Executed	☐ For approval	
	Subcontrac	t Agreement	☐ Approved	For your signature	
\boxtimes	Submittals		☐ Unapproved	□ For your use	
	List of Mate	erials		☐ For correction	
	Change Ord	der			
	Letter				
	EEO Letter				
	Payroll Affid	lavit			
	Purchase O	rder			
	Insurance C	Certificate			
	Daily Extra \	Work Bills			
Ren	narks:				

By: Joe Borovich

BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) - PART II

The bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project on this form. This is exquired for contribute with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form to list additional firms and attach the additional sheets to this page.

# aspania dates	1			
Address/ City, State, ZIP	Phone/ Fax	Annual	Description of & Percentage of Work that was to be	Local Agency Use Only
John & CA B License Number	Phone Co	Keceipts		(Certified DBE?)
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BIDDER'S LIST OF SUBCONTRACTORS (DRE and NON-DBE) - PART II

7.1

. . 1 The bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project on this form. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form to list additional firms and attach the additional sheets to this page.

Plan Man			and sheets to this page.	leets to this page.
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11555 Dublin Boulevard P.O. Box 2909 Dublin, California 94568 925/829-9220

CONTRACTOR'S LICENSE NO. 704195A

Date:

10/31/08

To:

County of El Dorado - Department of Transportation

Janel Gifford

Fax:

(530) 295-2655

From:

DeSilva Gates Construction

Jackie Davos

Phone:

925-829-9220 x1306

Fax:

925-803-4281

Pages:

7 (including cover page)

Subject:

County of El Dorado - US 50 HOV Lanes Phase 1

Bid Date: 10/30/08 @ 2:00 PM

Bidder's List of Subcontractors (DBE and NON-DBE)-PART II

As requested per Addendum No. 3, attached are the completed Bidder's List of Subcontractors (DBE and NON-DBE) — PART II forms for the above project.

Please contact our office if you have any questions.

Thank you,

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BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) - PART 11

The bidder shall liet all subcontractors who provided a grote or bid but were not referred to participate as a subcontractor on this form. This is required for compliance with This 49, Section 26 of the Code of Pederal Regulations. Photocopy this form to list additional firms and attach the additional shoets to this page.

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FAX TRANSMITTAL SHEET

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Sacramento Valley Branch

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BIDDER'S LIST OF SUBCONTRACTORS (DBS and NON-DBE) - PART II

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ATTACHMENT 5
NEHEMIAH CONSTRUCTION, INC. LETTER RE BIDDER'S LIST
OF SUBCONTRACTORS (DBE AND NON-DBE) FORMS
SUBMITTED WITH BID PROPOSAL
FOR U.S. 50 HOV LANES, PHASE 1 – EL DORADO HILLS TO
BASS LAKE GRADE PROJECT (JN 53110)

NEHEMIAH CONSTRUCTION, INC. 801 FIRST STREET, SUITE G BENICIA, CA 94510 (707) 746-6870 FAX (707)746-6815

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11)



Nehemiah Construction Inc

October 31, 2008

Janel Gifford County Of El Dorado

Subject: US 50 HOV Lanes Contract # 53110

Dear Sir or Madam:

On October 30th, 2008 Nehemiah Construction (NCI) submitted a bid proposal on the above mentioned contract. NCI also submitted a list of Subcontractors that would be used to perform work on this contract. NCI listed the subcontractors on the form on Pages 13 and 14. It was NCI's intention to use the subcontractors listed on both sheets. On October 31st NCI submitted a list of the Subcontractors that were not used on this project. Please let me know if you have any questions regarding this clarification.

Sincerely,

Jay P Zoellner

President

ATTACHMENT 6 NOVEMBER 3, 2008 BID PROTEST LETTER FROM GRANITE CONSTRUCTION

Mainerney & Dillon

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ril@nacinciney dillon com-

November 3, 2008

Department of Transportation El Dorado County 2850 Fairlane Court Placerville, California 95667 Via Facsimile (530) 295-2655 and U.S. Mail

Da.

U.S. 50 HOV Lanes (Phase I) El Dorado Hills to Bass Lake Grade

CIP Project No. 53110 Bid Date: October 30, 2008

Dear Centleperson:

I represent Granite Construction Company in the above matter. Granite Construction protests any award of this contract to Nehemiah Construction, Inc. because Nehemiah did not submit a responsive bid.

a. Nehemiah's bid is non-responsive re listed subcontractors.

A bidder is required to submit with its bid the name and location of its subcontractors who are going to perform more than ½ of 1% of its bid amount. California Public Contract Code § 4104.

At bid time, Nehemiah submitted a Subcontractor List with its bid as required by Section 4104, saying it was going to use only four subcontractors, listing. In its Subcontractor List, Nehemiah listed Mid State Constr. for guardrail, signs and barrier rail, Harris for rebar, Sterling Holloway for bridge demolition, and Chrisp for striping. (Exh. A.) This means that Nehemiah's bid represented to the County that Nehemiah would perform all of the other work itself, without subcontractors. California Public Contract Code § 4106. In addition Nehemiah on the following page of its bid listed three bidders it

Department of Transportation El Dorado County November 3, 2008 Page 2

represented "were not selected to participate as a subcontractor on this project" [italics in original]. (Exh. B.) These subcontractors who Nehemiah said it was not going to use were ABSL who had bid the cold plane, Kie-Con who had bid furnish and install prestressed box girders, and Angelo who it said had bid electrical.

A day after representing in its bid that it would itself perform the cold plane, furnish and install prestressed girders, and electrical, Nehemiah wrote a letter dated October 31, 2008 now saying it had intended to use the three subcontractors that it had listed in its bid that if would not use, ABSL, Kie-Con, and Angelo. (Exh. C.)

Nehemiah wants to change its bid after bid date. This is impermissible in California public work. Nehemiah's sole remedy for mistake is to seek to withdraw its bid under California Public Contract Code § 5100, et seq.

Nehemiah cannot perform the work in compliance with its bid. Nehemiah's bid says Nehemiah will perform (without subcontractors) the cold plane, furnish and install prestressed girders, and electrical work and says now that ABSL, Kie-Con, and Angelo would perform this cold plane, furnish and install prestressed girders, and electrical work. This work is more than ½ of 1% of Nehemiah's bid price. It is not possible for Nehemiah to self perform the cold plane, furnish and install prestressed girders, and electrical work and at the same time subcontract 100% of that work to someone clse. Nehemiah's bid is not responsive in the most fundamental sense: it is inconsistent and it fails to inform who will perform the work.

Nehemiah's bid should be rejected as non-responsive. If Nehemiah self performs, it may be sued by the subcontractors it belatedly attempted to change its bid to list. See R.J. Land and Associates Construction Company v. Kiewit-Shea (1999) 69 Cal.App.4th 416, 427-428. If Nehemiah subcontracts with a subcontractor it belated attempted to list, it is subject to fines and cancellation of the contract. Cal.Pub.Con.Code § 4110. In either event, an award to Nehemiah is entering into a contract to have a lawsuit, which is against the public's interest.

b. Nehemiah's bid failed to list all subcontractors.

Nehemiah's bid failed to comply with Special Provision 2-1.05 that required bidders to:

Department of Transportation El Dorado County November 3, 2008 Page 3

"In accordance with Section 26.11 of Title 49 Code of Federal Regulations Part 26, each bidder shall submit the name, contractor's license number, address, telephone and fax numbers, annual gross receipts and the description and percentage of the work to be performed by each subcontractor to whom the bidder proposed to subcontract portions of the work Each bidder shall submit this information with its Proposal using the BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) PAR'T I" form located in the Proposal section of these Contract Documents."

Nehemiah did not list subcontractors for performing clear and grubb, erosion control, construction area signs, roadside signs, prestressing, blasting, AC dike and miscellaneous AC, sawcut, paving fabric and tack.

Nehemiah did not comply with this provision as to those subcontractors performing less than the half of one percent of Nehemiah's bid price, thus making Nehemiah's bid non-responsive and giving Nehemiah an unfair bid advantage.

c. Nehemiah cannot perform the blasting.

Nehemiah did not list any subcontractor for blasting and it appears that Nehemiah cannot legally self-perform the blasting, making its bid non-responsive. The work requiring blasting, for which the lowest blasting subcontractor's quote was about \$290,000, well in excess of half of one percent of Nehemiah's bid price so it cannot use a subcontractor for the work. Because Nehemiah did not list a blasting subcontractor, it represented it would self-perform the blasting. Public Contract Code Section 4106.

We understand that Nehemiah has not itself performed blasting work like this and does not have the necessary experience, permits or license to do so. It is also my understanding that to perform the blasting required by this contract that Nehemiah would be required to have, but does not have:

- 1) California Highway Patrol Hazardous Materials License,
- 2) Department of Motor Vehicles Motor Carrier Permit,
- 3) U.S. Department of Transportation Hazmat Certificate of Registration,
- 4) U.S. Department of Alcohol, Tobacco, Firearms and Explosives Federal

Department of Fransportation El Dorado County November 3, 2008 Page 4

explosives permit,

- 5) County explosives permit, or
- 6) 10+ years related experience.

In addition I understand that the individual blasters must have the following, but that Nehemiah has no such employees:

- 1) California blaster license,
- 2) 10 years related experience,
- 3) Department of Motor Vehicles license with Hazardous Materials endorsement for transportation,
- 4) U.S. Department of Alcohol, Tobacco, Firearms and Explosives clearance as employee possessors,
- 5) Department of Justice Certificate of Eligibility,
- 6) Department of Transportation physical.

This contract requires blasting supervisors (blaster in charge) have a minimum of 10 years of experience directly related to the specific type of blasting they are supervising (Contract Special Provision 10-1,32). It is my understanding that Nehemiah has no such supervisors for blasting.

Granite Construction Company submits that Nehemiah Construction, Inc.'s bid is not responsive and should be rejected.

Sincerely,

Robert L. Leslie

RLL/mis Encls.

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GLOUNG LIST OF SUBCONTRACTORS (DBE and NOW-DBE) - PART I

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U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

County of BI Decado DOT Proposal Page P-13



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U.S. 50 HOV Lanes Phase 1 Contract No. 53110 September 24, 2008

County of El Dorado DOT Proposal Page P. 14

EXA

Nehemiah Construction Inc



1. 15-7 1. 1. 1.

October 31, 2008

PAY THE ZUE OF COURSE WAYNE.

Janel Gifford County Of El Dorado

Subject: US 50 HOV Lanes Contract # 53110

Dear Sir or Madam:

On October 30th, 2008 Nehemiah Construction (NCI) submitted a bid proposal on the above mentioned contract. NCI also submitted a list of Subcontractors that would be used to perform work on this contract. NCI lieted the subcontractors on the form on Pages 13 and 14. It was NCI's Intention to use the subcontractors listed on both sheets. On October 31st NCI submitted a list of the Subcontractors that were not used on this project. Please let me know if you have any questions regarding this clarification.

Sincercly.

Jay P Zoellner

President

Main Office:

801 First Smart Syrte G | Senica, Culdonia 94510

Tel: (707) 7:5-6870

Fax: (70?) 348,6815

Exh C

ATTACHMENT 7 NOVEMBER 7, 2008 BID PROTEST LETTER FROM A. TEICHERT & SON dba TEICHERT CONSTRUCTION



Robert W. O'Connor Attorney at Law

Sacramento Office 916.444.3900 tel 916.444.0707 fax roc@mhalaw.com

November 7, 2008

VIA E-MAIL AND U.S. MAIL

Janel Gifford
Office Engineer Unit
El Dorado County Transportation Department
2441 Headington Road
Placerville, CA 95667

Re:

Bid Protest

U.S. 50 HOV Lanes Plase I - El Dorado Hills to Bass Lake Grade Project

Contract No. 53110

Dear Ms. Gifford:

We are attorneys for A. Teichert & Son, Inc. dba Teichert Construction. As you know, Teichert submitted the third-lowest monetary bid on the above-referenced project.

In response to your letter to bidders dated November 4, 2008, Teichert hereby submits its bid protest regarding the project. For the reasons stated below, Teichert objects to award of the contract to either the lowest monetary bidder, Nehemiah Construction, Inc., or to the second-lowest monetary bidder, Granite Construction Company. The bids submitted by both Nehemiah and Granite are non-responsive and must be rejected. After rejection of the bids submitted by Nehemiah and Granite, Teichert respectfully requests that the contract be awarded to Teichert as the lowest responsive and responsible bidder.

PROTEST OF NEHEMIAH CONSTRUCTION, INC. BID

Legal counsel for Granite, Robert L. Leslie, has submitted a bid protest letter to the County dated November 4, 2008. Teichert joins in Granite's protest of Nehemiah's bid and Granite's request that Nehemiah's bid be rejected. For all of the reasons stated in Granite's bid protest letter, Nehemiah's bid is non-responsive and must be rejected.

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Janel Gifford November 7, 2008 Page 2

In particular, Nehemiah's bid must be rejected because, as pointed out by counsel for Granite, Nehemiah claims that it made a mistake in filling out its bid by failing to list three intended subcontractors at bid time. This mistake is documented in Nehemiah's letter to the County dated October 31, 2008. California law is very clear that a bid irregularity may be waived by a public entity only "if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders ... " Konica Business Machines U.S.A., Inc. v. Regents of University of California, 206 Cal. App. 3d 449, 454 (1966) (italics in original). It is equally clear under California law that an irregularity does give a bidder an advantage or benefit not allowed other bidders if that bidder is in a position to withdraw its bid based on mistake. See Valley Crest Landscape v. City of Davis, 41 Cal.App.4th 1432 at 1442 (1996). Having made a mistake in its subcontractor listing forms, Nehemiah was in a position to claim mistake and seek relief under California Public Contract Code section 5103. Because Nehemiah was in a position to claim mistake, the irregularities in its bid cannot be waived.1

In addition to the mistake pointed out by counsel for Granite, Nehemiah made a second and even more serious mistake in filling out its bid form. The second mistake made by Nehemiah concerns the percentages listed by Nehemiah on the subcontractor listing form entitled "Bidder's List of Subcontractors (DBE and Non-DBE) - Part I." Although the bidding documents are perhaps less than a model of clarity, a thorough reading of the bidding documents makes it clear that the "Percentage of Work to be Performed" to be filled in on this form is the percentage of the bidder's total bid price that the listed subcontractor will perform. For example, if Pretend Electric submitted a sub-bid to Bidder A in the amount of \$1,000, and Bidder A's total bid price to the County was \$10,000, then the correct percentage to be stated on the form would be 10%. The obvious purpose – indeed the only purpose – of the requirement for bidders to state percentages for each listed subcontractor is to enable the County to verify that that the bidders are intending to comply with the 50% self-performed work requirement stated in section 5-1.16 of the Special Provisions.²

¹ Nehemiah's letter to the County dated October 31, 2008 could be interpreted as a request for substitution of subcontractors under the Subcontractor Listing Law, California Public Contract Code section 4100 et seq., on the grounds that Nehemiah mistakenly failed to list three subcontractors. However, this relief is not available to Nehemiah. Public Contract Code section 4107.5 permits substitution of an intended subcontractor in place of a subcontractor listed due to "inadvertent clerical error," but neither section 4107.5 nor any other part of the Listing Law permits a bidder to add subcontractors for portions of work where no subcontractors were listed at bid time. Further, section 4106 clearly states that if the bidder fails to list a subcontractor for a portion of the work, "the prime contractor agrees that he ... shall perform that portion himself or herself."

2 "... Contractor shall perform with the Contractor's own organization contract work amounting to not

less than 50% of the original contract price ..."



Janel Gifford November 7, 2008 Page 3

In filling out its "Bidder's List of Subcontractors (DBE and Non-DBE) – Part I," Nehemiah made a mistake. Instead of stating the percentage of the bidder's total bid price that the listed subcontractor will perform, Nehemiah stated the percentage of the category of work to be performed by the listed subcontractor. For example, Nehemiah listed Mid St. [sic] Barrier, Inc. for Guardrail, Sign Structure, and Barrier Rail and stated a percentage of 80% for that work. Similarly, Nehemiah listed Harris Salinas Rebar for Reinforcing and stated a percentage of 90% for that work. If all of the subcontract percentages stated in Nehemiah's bid were correct, it would mean that Nehemiah intends to subcontract work equal to 595% of its total bid price! Clearly, Nehemiah made a mistake in filling in the subcontract percentages on its subcontractor listing form.

As a consequence of Nehemiah's mistake in filling out the "Bidder's List of Subcontractors (DBE and Non-DBE) – Part I" form, Nehemiah's bid must be rejected as non-responsive. The Court of Appeals' decision in <u>Valley Crest Landscape v. City of Davis</u>, mentioned above, is directly on point with respect to this issue:

"Misstating the correct percentage of work to be done by a subcontractor is in the nature of a typographical error. It makes the bid materially different and is a mistake in filling out the bid. As such, under Public Contract Code section 5103, [the low bidder] could have sought relief by giving the City notice of the mistake within five days of the opening of the bid. That [the low bidder] did not seek such relief is of no moment. The key point is that such relief was available. Thus, [the low bidder] had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an 'irregularity.'" 41 Cal.App.4th. at 1442. (Emphasis added.)

Nehemiah's bid also should be rejected because it is impermissibly unbalanced. Except as modified by the Special Provisions, the May 2006 Caltrans Standard Specifications apply to this project. Section 2-1.10 of the Standard Specifications states: "Proposals in which the prices are obviously unbalanced may be rejected." The most glaring example of an unbalanced bid item in Nehemiah's bid is item number 9, Traffic Control System. For this item, Nehemiah bid only \$50,000, while Granite bid \$1,045,572, Teichert bid \$650,000, and De Silva Gates bid \$225,000. Obviously, the value of two years of traffic control far exceeds the amount bid by Nehemiah. The purpose of this unbalancing, of course, was to permit Nehemiah to move dollars to items of work which are likely to be paid early in the job, i.e., impermissible frontloading.



Janel Gifford November 7, 2008 Page 4

PROTEST OF GRANITE CONSTRUCTION COMPANY BID

Although Teichert agrees with Granite that Nehemiah's bid is non-responsive and must be rejected, Teichert also believes that Granite's bid is at least equally non-responsive and must be rejected as well, for two reasons.

First, like Nehemiah, Granite made a mistake in filling out the part of its bid form entitled "Bidder's List of Subcontractors (DBE and Non-DBE) – Part I." As noted above, on this form the "Percentage of Work to be Performed" is the percentage of the bidder's total bid price that the listed subcontractor will perform. Instead of calculating and stating percentages in this fashion, Granite stated percentages of the categories of work to be performed by the listed subcontractor. By way of example, Granite listed Central Striping for Striping and stated a percentage of 100% for that work. Similarly, Granite listed Triangle Excavation for Clear & Grub Partial and stated a percentage of 40%. Added together, Granite's bid states that it is subcontracting 1260% of its bid price, which is both impossible and in violation of the 50% self-performed work requirement stated in section 5-1.16 of the Special Provisions.

As discussed above, because Granite made a mistake in filling in the subcontractor percentages on its bid form, Granite was in a position where it could claim mistake and withdraw its bid. Accordingly, under the <u>Valley Crest Landscape</u> case, Granite's bid must be rejected as non-responsive.

Second, Granite's bid is irregular and must be rejected because Granite failed to provide the addresses of its listed subcontractors. Although addresses are not required by the Subcontractor Listing Law, they are nevertheless a mandatory requirement on this project. Section 2-1.05 of the Special Provisions states: "In accordance with Section 26.11 of Title 49 Code of Federal Regulations Part 26, each bidder shall submit the name, contractor's license number, address, telephone and fax numbers, annual gross receipts and the percentage of the work to be performed by each subcontractor to whom the bidder proposes to subcontract portions of the work." (Emphasis added.) The bidding form entitled "Bidder's List of Subcontractors (DBE and Non-DBE) — Part I" reiterates this requirement by referencing Section 26.11 of the federal regulations and providing spaces for the addresses to be inserted. The County has good reason to require this information from the bidders because Section 26.11 of the Code of Federal Regulations mandates that the County collect the

³ Although both Nehemiah and Granite made the same basic mistake in listing their subcontractor percentages, both Teichert and De Silva Gates clearly understood the requirement and listed percentage in a proper manner so that the County could verify their compliance with the 50% self-performed work requirement.



Janel Gifford November 7, 2008 Page 5

information and provide it to the Federal Government.⁴ Granite cannot say that it did not understand the address requirement, because it did provide proper and complete addresses for its non-listed subcontractors on the form entitled "Bidder's List of Subcontractors (DBE and Non-DBE) – Part II."

Granite's failure to provide the subcontractor addresses on its subcontractor listing form is a fatal defect which cannot be waived. As noted above, a bid irregularity may be waived by the awarding authority only "if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders ..." Konica Business Machines U.S.A., Inc. v. Regents of University of California, 206 Cal.App.3d 449, 454 (1966) (italics in original). In this instance, Granite enjoyed an advantage not afforded other bidders because in filling out its bid form Granite did not have to take the time to locate and write in addresses for all of its listed subcontractors. This gave Granite extra time to receive and review late subcontractor quotes and consider other cuts which it might make in order to lower its bid price to a more competitive number.

CONCLUSION

For the reasons discussed above, Teichert respectfully requests that the bids of both Nehemiah Construction, Inc. and Granite Construction Company be rejected as non-responsive and that the contract be awarded to Teichert Construction as the lowest responsive and responsible bidder.

If you receive responses to this protest from either Nehemiah or Granite, please forward them to me via facsimile or email. Also, please let me know when this matter will be considered by the Board of Supervisors.

Very truly yours,

Robert W. O'Connor

ROC:nir

ce: Clyde Hamilton

Robert L. Leslie, Esq.

⁴ 49 CFR section 26.11 states: "(2) You [referring in this instance to the County] <u>must</u> obtain the following information about ... subcontractors who seek to work on your Federally-assisted contacts: ... (ii) Firm address ... " (Emphasis added.)

ATTACHMENT 8 NOVEMBER 7, 2008 LETTER FROM NCI RESPONDING TO GRANITE CONSTRUCTION'S BID PROTEST

DONALD K. STRUCKMANN

A Professional Law Corporation

915 Highland Pointe Drive, Suite 250 Roseville, California 95678 Fel: (916) 782-7900

Fax: (916) 784-7900

Mail All Correspondence to P.O. Box 877, Roseville, CA. 95661

November 7, 2008

Mr. Richard W. Shepard, P.E. Director of Transportation County of El Dorado 2850 Fairlane Court Placerville, California 95667

Re: Bid Protest by Granite Construction Company (November 3, 2008)

County Contract No. 53110: U.S. 50 HOV Lanes (Phase 1) Latrobe Road to Bass Lake

Bid Date: October 30, 2008

Dear Mr. Shepard:

I am writing on behalf of Nehemiah Construction, Inc. (NCI) to respond to and to request denial of the bid protest submitted by Granite Construction Company (GCC) on November 3, 2008. GCC concedes that NCI is a responsible bidder and that the bid by NCI was the low bid on the project. Instead, GCC protests the award of the above referenced contract to NCI on grounds that the bid was non-responsive in three respects. For reasons stated below, none of the bases offered by GCC are correct and none warrant the setting aside of the award to NCI for the construction of the HOV Lanes, Phase 1 along US Highway 50 at El Dorado Hills to Bass Lake (JN 53110). NCI respectfully requests the El Dorado County Department of Transportation and the County Supervisors of El Dorado County deny the protest of GCC and confirm the award of Contract JN 53110 to NCI.

1. Strong Public Policy Interests Govern the Review of the Protest.

This protest, as in all cases, is governed by law and policies established for the protection of the citizens and the taxpayers of El Dorado County. The purpose of competitive bidding is to guard against favoritism, extravagance, fraud and corruption, and to secure the best contract work at the lowest price. It is the public interest that is at stake. Competitive bidding regulations are designed for the benefit of the taxpayers, and not for the benefit or enrichment of private bidders. The public agency's review of the bid protest should be conducted so as to accomplish these purposes fairly and reasonably with sole reference to the public interest. The public agency is entitled to deal with such issues in a sensible and practical way so as to serve the public interest.

A deviation from the prescribed bid procedures should only be cause for setting aside of the winning bid if the "deviation is found to be capable of facilitating corruption or extravagance, or likely to affect the amount of bids or the response of potential bidders." *Domar Electric. Inc. v. City of Los Angeles* (1994) 9 Cal. 4th 161, 176; *MCM Const., Inc. v. City & County of San Francisco* (1998) 66 Cal. App. 4th 359, 369.

Further, the County of El Dorado reserves to itself the authority to waive any irregularity in a bid. The County reasonably exercised that discretion at the bid opening to accept the seven listed subcontractors despite the mistaken form used for listing three of the declared trade subcontractors.

In this instance no public interest would be served by setting aside the bid of this contractor and accepting a bid that would increase the public cost by \$1.5 million dollars. Nor can it be said that the irregularity of the form of the bid in placing some subcontractor names on a form intended for other non-accepted subcontractors could have had any possible effect on the amount of bids or the response of potential bidders. On the contrary, the public interest would be severely harmed by the setting aside of the winning bid. "It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal or license application of the low bidder after the fact, [and] cancel the low bid on minor technicalities, with the hope of securing acceptance of his, a higher bid. Such construction would be adverse to the best interests of the public and contrary to public policy." *Judson Pacific-Murphy Corp. v. Durkee* (1956) 144 Cal. App. 2nd 377, 383.

The bid by Nehemiah is fully and properly responsive to the invitation to bidders for the aforementioned project in all respects. The protest is a thinly veiled effort to capitalize on minor irregularity and technicality to take unfair advantage of the County of El Dorado.

The protest cites to an appellate decision that deals with the right of a listed subcontractor to file suit to protect its rights if the successful contractor does not hire them. This is not at issue here. NCI listed all of its intended subcontractors and there is no evidence or even a charge that NCI has any plan not to hire its listed subcontractors when it is awarded this contract.

2. Nehemiah's Bid Is Fully Responsive in that NCI Listed all Subcontractors Which It Intends to Employ.

In its protest, GCC claims that NCI's bid is non-responsive because NCI only listed 4 subcontractors on page 13 of its bid. GCC contends that the bid is non responsive because three of the subcontractors were listed on the following page 14 (ABSL, Kie-Con, and Angelo). GCC mistakenly assumes that NCI did not intend to use those trade subcontractors. The plain reading of pages 13 and 14 which each allow for just 4 trade names, is that NCI listed all seven trade subcontractors it intended to employ in the performance of this contract.

GCC erroneously asserts that because page 14 of the proposal is a form designed to be used for listing subcontractors which were not selected to perform work on the project, that NCI originally intended not to use them and only later changed its mind and now wants to use these three subcontractors to perform work. This allegation is a misinterpretation of the facts and patently false. There is no logical basis for this interpretation.

NCI acknowledges that it inadvertently listed three subcontractors that it fully intended to use on page 14 of the bid proposal. Any reasonable reading of its bid proposal clearly reveals that NCI fully intended to have the three subcontractors (ABSL, Kie-Con, and Angelo) perform work on this project as accepted by the County at the bid opening.

It is an ancient principle of contract law that the documents must be interpreted by looking to the four corners of the writing. The form of the bid contains some pre-printed language at page 14 which creates an ambiguity with the handwritten listing of the trade subcontractors. The work of this project requires seven separate crafts beyond the work being performed by NCI. These seven categories of work are represented by seven trade subcontractors.

The listing of ABSL, Kie-Con, and Angelo on the second page (page 14) was obviously a continuation of the subcontractor listing from the first page (page 13). There can be no other reasonable interpretation. The fact that NCI used page 14 of the proposal to continue listing the subcontractors to perform work was merely an oversight by the individual filling out and submitting the bid proposal. During the process of filling out the proposal and listing the subcontractors to be used, the individual filling out the bid filled in the form on page 13 (which only provided room for listing four subcontractors) and then turned the page and continued to list the subcontractors to be used on page 14. This should be recognized as a minor clerical error resulting from the fact that both pages are nearly identical and contain very small print differentiating the two pages thereby creating some ambiguity. Again, page 14 looks identical to the preceding page and was therefore easily mistaken to be a continuation of the first page for listing subcontractors to be used.

The protest offers no explanation as to how anyone might have been reasonably misled to adopt the protestor's reading of the bid. This is very complex work and these are all very sophisticated contractors. No one can assert with conviction that they thought that the three subcontractors on page 14 were anything other than a continuation of the list begun on page 13.

NCI's intent to use ABSL, Kie-Con, and Angelo was confirmed during the bid opening and reading when the County officials verbally questioned NCI's intent regarding it subcontractor listing. The question arose because the use of the Part II form was clearly inconsistent with the obvious intent of the bid and the natural identities of the trades who would be expected to be listed. In response, and in the presence of all bidding parties, NCI's representative verbally informed the County that NCI's intent was that each subcontractor listed (including those on page 14 of the proposal) had been selected and listed to perform work on the project. GCC did not protest at the time, most likely because it too recognized NCI's explanation to be clear and convincing.

The County confirmed its correct interpretation of NCI's bid proposal when it published the bid results on October 30, 2008 showing that ABSL, Kie-Con, and Angelo were in fact listed as subcontractors to perform work on the project. The County made the reasonable and fair decision to waive the irregularity of the form on which NCI listed its last three subcontractors. In addition, NCI transmitted a letter to the County Department of Transportation on October 31, 2008 confirming its intention to use the subs listed on both pages 13 and 14 and that the rejected subcontractor proposals had been submitted in a subsequent transmittal. The purpose here was to make absolutely sure that there was no lingering confusion and to make a written record of the oral proceedings the day before.

This county is experienced in work of this type and its officials are highly qualified to evaluate the bids submitted for this project. County officials readily recognized the ambiguity of the

form and acted reasonably to accept the listing of subcontractors on page 14 as a continuation of the list begun on page 13. No one (not even the protestor) suggests that the County was misled into interpreting NCl's listing of ABSL, Kie-Con, and Angelo on page 14 of the proposal as evidence that NCI did not intend to use any of these subcontractors. The County officials easily recognized that the scope of work bid by each of the three subcontractors is typical of specialty work that would be performed by a subcontractor on this project. The force of this interpretation is buttressed by the fact that there were no other subcontractors of these types listed elsewhere in the proposal.

If, as GCC argues, NCI intended to use page 14 to list subcontractors that would not participate on the project as opposed to subcontractors that would participate, then the County would have to believe that NCI only received a total of seven subcontractor proposals in all (4 accepted and 3 rejected), and the County would also have to believe that NCI did not receive a single additional quote from any other subcontractor that performs the same work as those listed on page 13 (guardrail, rebar, demo, and striping). Neither of these two assumptions are reasonable. It is not credible to claim that page 14 of NCI's bid proposal contained subcontractor bids that were rejected by NCI.

Further, the list of rejected bidders was not supposed to be included with the bid, but instead to be submitted a day later. Thus, the County had no reason to believe that page 14 was a list of rejected bidders, and every reason to believe that NCI had inadvertently used the very similar, but different, form to list the final three subcontractors.

NCI, in good faith, listed ABSL, Kie-Con, and Angelo at page 14 as subcontractors to perform work as a continuation of the list begun on the previous page. All seven subcontractors were orally listed at the bid opening. NCI further confirmed its intentions when it submitted its list of rejected subcontractor proposals which included the names and information of nearly 40 subcontractors, within 24 hours following the bid opening as required by the contract documents. That list, which is a part of the bid, does not include the three subcontractors (ABSL, Kie-Con, and Angelo) from page 14. Thus the entire bid, including the list of non-retained subcontractors, accurately and clearly discloses the trade subcontractors that NCI intends to employ on this project.

It should also be noted that it is extremely rare on most public contracting bids, and unheard of with the State, to submit a list of all subcontractors that submitted proposals but were not selected for use. It would also not be customary to provide two nearly identical pages back-to-back for such purposes. The use of the two nearly identical forms invited the error that occurred. It would be decidedly against the public interest to allow a losing bidder to seize upon this to impose a higher cost contract upon the County.

3. Nehemiah's Bid Listed All Subcontractors Required by Invitation.

The protest mistakenly contends that NCI's bid is non-responsive because it failed to list all subcontractors regardless of the percentage of work to be performed. The bid requirements provide for listing only if the work will not be self-performed by the bidder AND that a subcontractor will be employed at a subcontract price in excess of ½ of 1% of the total contract. The protest erroneously accuses the bid of being non-responsive for failure to list subcontractors for such minor

work items as clear and grub, erosion control, pre-stressing, miscellaneous AC, etc. The protest is without merit on both bases. First, NCI intends to self-perform some of these tasks. Second, none of the tasks that are not-self performed rise to the listing threshold of ½ of 1% of the total contract amount. The protest concedes that these items may be self-performed and does not dispute that these items of work do not reach the threshold for listing even if the contractor chose to hire outside vendors for those tasks.

NC1 has chosen means and methods of performing these minor categories of work that produce substantial cost savings to the County of El Dorado. There would be a grave public policy loss to the County if it were to approve the protest on this ground. It would signal that such items must be bid using outside subcontractors in order to avoid loss of the contract by bid protest. This would result on higher costs on all future road work as it would require all future contractors to employ less efficient means and methods of performance, all at County cost.

4. Nehemiah Does Not Plan to Perform Blasting.

In its protest, GCC claimed that NCI's bid is non-responsive because it did not list a blasting subcontractor. This point is completely baseless due to the fact that blasting is not a requirement of the contract but instead is one of many possible methods for performing the rock excavation. The unsuccessful bidder estimated its work by use of means and methods that are substantially less efficient by using explosives rather than more efficient earth removal methods. NCI has carefully examined the site and determined that blasting is not necessary. NCI has elected not to subcontract for blasting and thus did not list a blasting subcontractor. This is no violation of the statutory bidding requirements. To grant the protest on this issue would reward a bidder who is less efficient, at the greater cost to the taxpayers of El Dorado County.

Moreover, no listing is required unless the quantum of blasting would result in costs in excess of ½ of 1% of the total contract amount. Nehemiah has carefully considered the geology of the site and determined that the possible need for blasting is remote and so minor as to fall far below the threshold cost for listing of a potential subcontractor. GCC makes no showing in its protest that the work cannot be performed by equipment without the assistance of explosives or that the volume of such work must necessarily rise above the listing threshold.

Finally, given the inherent dangers and disruptions caused by use of high explosives in construction the County of El Dorado will avoid increased risk of liability by avoiding the use of explosives on this project. Explosives are also more disruptive to the public. The choice of means and methods by Nehemiah Construction avoids these risks and disruptions which produces a long term savings to the County for insurance and also benefits the workers on the project who will not be subjected to greater risk of injury.

5. The Public Interest Can Only be Served by Denial of the Protest.

The award to Nehemiah achieves the public purpose of obtaining products at the lowest practical cost to the County. There is no indication or claim of any favoritism, extravagance, fraud or corruption in the award of the contract to Nehemiah. There is at most, a very minor irregularity in the use of an incorrect form for the listing of three of the subcontractors who will be employed

on the job. There is no failure to disclose any subcontractor who is expected to perform more than the minimum of ½ of 1% of the contract price. There is no intent to self perform blasting work for which separate governmental permits are required. No valid public policy would be served by upholding the protest.

If the county elects to reverse its initial decision to disregard a very trivial irregularity of forms used in the bid to approve the protest by GCC the action will set a precedent that risks unintended consequences. Such action might create an impression that El Dorado County is prone to granting protests even when based upon minor irregularities. Such a view would encourage bidders on all future projects to submit protests on every minor or imagined defect in the form of the bid, however slight, in the hope that the County would award work to protesting contractors. Such a practice would severely erode the entire bid process to the grave harm to the County and its citizens.

It is clear that the protest put forth by Granite Construction Company is without merit as it contains unfounded accusations and points to only minor irregularities which in no way constitute a non-responsive bid. Granite does not even suggest any benefit to the County should it approve the protest. Implicit in the protest is that the County will suffer significant additional costs and risks with absolutely no compensating benefit. Granting of the protest will only encourage more protests on future work thereby undermining the whole bid process and increasing the County's costs of administering the public contract bid system.

Equity and common fairness requires an acknowledgment that NCI honestly listed all of its intended subcontractors. This was obvious even at bid opening. It is equally clear that NCI in no way gained any advantage over the protester as alleged. All these facts demonstrate that it is in the clear and unequivocal best interests of the County of El Dorado to deny the protest.

NCI requests that the County dismiss the above referenced protest submitted by GCC and award the contract to Nehemiah Construction, Inc., as the lowest responsible and responsive bidder.

Donald K. Struckmann

DKS: jas

ce: Mr. Robert L. Leslie

ATTACHMENT 9 NOVEMBER 10, 2008 LETTER FROM GRANITE CONSTRUCTION RESPONDING TO A. TEICHERT & SON dba TEICHERT CONSTRUCTION'S BID PROTEST

McINERNEY & DILLON

PROFESSIONAL CORPORATION
1999 HARRISON STREET - SUITE 1700
OAKLAND, CALIFORNIA 94612-4700

Robert L. Leslie

TELEPHONE (810) 465-7100 FAX (510) 465-8566

rll@mcinerney-dillon.com

November 10, 2008

Department of Transportation El Dorado County Attn: Janel C. Gifford 2850 Fairlane Court Placerville, California 95667

Via Facsimile (530) 626-0387 and U.S. Mail

Re:

U.S. 50 HOV Lanes (Phase 1) El Dorado Hills to Bass Lake Grade

CIP Project No. 53110 Bid Date: October 30, 2008

Dear Ms. Gifford:

This is further to my letter of November 3, 2008 in which Granite Construction Company protested award of this contract to Nehemiah Construction, Inc., and is in response to the protest of A. Teichert & Son, Inc. dba Teichert Construction presented by its attorneys' letter of November 7, 2008.

1. Nehemiah's bid.

a. Nehemiah subcontractor listing.

Nehemiah Construction, Inc. had two working days in which to assert a claim of inadvertent clerical error in the listing of subcontractors, but appears not to have asserted such a claim. California Public Contract Code § 4107.5 provides:

The prime contractor as a condition to assert a claim of inadvertent clerical error in the listing of a subcontractor shall within two working days after the time of the prime bid opening by the awarding authority give written notice to the awarding authority and copies of that notice to both the subcontractor he or she claims to have listed in error and the intended subcontractor who had bid to the prime contractor prior to bid opening.

Any listed subcontractor who has been notified by the prime contractor in accordance with this section as to an inadvertent clerical error shall be allowed six working days from the time of the prime bid opening within which to submit to the awarding authority and to the prime contractor written objection to the prime contractor's claim of inadvertent clerical error. Failure of the listed subcontractor to file the written notice within the six working days shall be primary evidence of his or her agreement that an inadvertent clerical error was made.

The awarding authority shall, after a public hearing as provided in Section 4107 and in the absence of compelling reasons to the contrary, consent to the substitution of the intended subcontractor:

- (a) If (1) the prime contractor, (2) the subcontractor listed in error, and (3) the intended subcontractor each submit an affidavit to the awarding authority along with such additional evidence as the parties may wish to submit that an inadvertent clerical error was in fact made, provided that the affidavits from each of the three parties are filed within eight working days from the time of the prime bid opening, or
- (b) If the affidavits are filed by both the prime contractor and the intended subcontractor within the specified time but the subcontractor whom the prime contractor claims to have listed in error does not submit within six working days, to the awarding authority and to the prime contractor, written objection to the prime contractor's claim of inadvertent clerical error as provided in this section.

If the affidavits are filed by both the prime contractor and the intended subcontractor but the listed subcontractor has, within six working days from the time of the prime bid opening, submitted to the awarding authority and to the prime contractor written objection to the prime contractor's claim of inadvertent clerical error, the awarding authority shall investigate the claims of the parties and shall hold a public hearing as provided in Section 4107 to determine the validity of those claims. Any determination made shall be based on the facts contained in the declarations submitted under penalty of perjury by all three parties and supported by testimony under oath and subject to cross-examination. The

> awarding authority may, on its own motion or that of any other party, admit testimony of other contractors, any bid registries or depositories, or any other party in possession of facts which may have a bearing on the decision of the awarding authority.

Nehemiah Construction wrote a letter October 31, 2008, but it does not appear to claim inadvertent clerical error in listing its subcontractors as provided for in Section 4107.5. It also does not appear the letter to have been sent to the intended subcontractors as required by Section 4107.5. The County did not consider Nehemiah's letter as a claim of inadvertent clerical error in listing subcontractors under Section 4107.5. Because more than two working days have passed, it is now too late for Nehemiah Construction, Inc. to claim inadvertent clerical error in listing subcontractors. (Public Contract Code § 4107.5). Even were the County to now consider Nehemiah's October 31, 2008 letter as a claim of inadvertent clerical error in listing subcontractors under § 4107.5, the County would have to hold a hearing as provided for in Section 4107.5. However, there is no indication that the County has proceeded on this basis and until such a hearing is done there can be no substitution.

b. Nehemiah's failure to list all subcontractors.

Nehemiah failed to list <u>all</u> of its subcontractors, including the ones performing less than one half of one percent, as required by the County's bid documents. Special Provision 2-1.05 (". . each bidder shall submit the name. . . each subcontractor . . . "); "Bidder's List of Subcontractors (DBE and Non-DBE) - Part 1", Proposal, Page P-13 ("The bidder shall list all subcontractors ..."). Nehemiah's failure to list all of its subcontractors did not violate Public Contract Code § 4100 et seq. but instead was contrary to the County's invitation to bid. This makes Nehemiah's bid non-responsive because Nehemiah did not do what the County's invitation to bid required, that is to list <u>all</u> subcontractors. This gave Nehemiah a bid advantage and thus cannot be waived as a minor irregularity.

2. Response to Teichert's Bid Protest

Teichert protests Granite's bid on two grounds: (1) Teichert claims that in the "Description of & Percentage Work to be Performed" on the "Bidder's List of Subcontractors (DBE and Non-DBE) - Part 1", bidders were supposed to state the subcontractor's work as a percentage of the total bid price as opposed to the percentage of the item of work the subcontractor would perform, and (2) Teichert claims that Granite did not provide addresses of the listed subcontractors and that makes its bid non-responsive. Each will be addressed in turn.

a. Subcontractor's Percentage of Work to be Performed.

Teichert claims that on the "Bidder's List of Subcontractors (DBE and non-DBE) - Part

I" in the column entitled "Description of & Percentage of Work to be Performed" that bidders were to put the percent of subcontractor's work as a percentage of the total bid price. This is not what the bid provides. The bid documents require a bidder to set forth the percentage of each item of work the subcontractor would perform. The Notice to Bidders, Page N-2 provides:

"Required Listing and Proposed Subcontractors Provides "Each proposal shall have listed therein the name and address of each subcontractor, including the percentage of each item the subcontractor will work on, to whom the bidder proposes to subcontract portions of the work in amount in excess of ½ of 1% of its total bid or \$10,000, whichever is greater, in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code." [Bold added.]

The Notice to Bidders is clear. The percentage to be listed is "the percentage of each item the subcontractor will work on". Teichert admits its bid did not provide this information. Granite's bid is responsive. Teichert's bid is not.

b. Addresses of listed subcontractors.

Teichert claims that Granite's bid is non-responsive because it did not "provide the addresses in its listed subcontractors." Granite listed each subcontractor, its California Contractor's license number, its telephone number, its fax number and its address, i.e. the City and State. We are unaware of any provision or law that defines "address," so as to require a post office box or street number or name. The Subcontractor is unequivocally identified by the information provided. Teichert does not point to any provisions that says "addresses" must be more than the City, as is usually listed. In any case, Special Provision 2-1.05 "DBE INFORMATION" provides:

"In accordance with Section 26.11 of Title 49 of the Code of Federal Regulations Part 26, each bidder shall submit the name, contractor's license number, address, telephone and fax numbers, annual gross receipts and the description and percentage or the work to be performed by each subcontractor to whom the bidder proposes to subcontract portions of the work." [Bold added.]

Section 26.11 of Title 49 Code of Federal Regulations Part 26 provides that the name, addresses, etc. may be acquired "before or after the bid due date..." 49 C.F.R. 26.11(c) provides:

(1) The purposes of this list is to provide you as accurate data as

possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

- (2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts: (i) Firm name; (ii) Firm address; (iii) Firm's status as a DBE or non-DBE; (iv) Age of the firm; and (v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000 \$1 million; \$12 million; \$25 million; etc.) rather than requesting an exact figure from the firm.
- (3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information). [Bold added.]

Teichert's protest that Granite's bid is non-responsive because Granite did not also include a street or post office box of a subcontractor is not well taken.

Conclusion

Granite respectfully submits that the bid of Nehemiah should be rejected as non-responsive, and the contract awarded to Granite.

Sincerely,

Robert L. Leslie

cc: Robert W. O'Conner (via e-mail)

Nehemiah Construction, Inc. (via facsimile 707-746-6815)

ATTACHMENT 10 NOVEMBER 12, 2008 LETTER FROM A. TEICHERT & SON dba TEICHERT CONSTRUCTION RESPONDING TO NCI AND GRANITE CONSTRUCTION'S BID PROTEST



Fax Cover Sheet

Robert W. O'Connor Attorney at Law

Sacramento Office 916.444,3900 tel 916.444.0707 fax roc@mhalaw.com

November 12, 2008

Patricia E. Beck El Dorado Co	inty 530.621.2937 530.621.5770
	230.021.2737 230.021.3770
Donald K. Struckman Attorney at L.	w 916.784.7900 916.782.7900
RE US 50 HOV Lanes Bid Protest	NUMBER OF PAGES SENT 7 COPY WILL NOT BE MAILED

Message:

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Robert W. O'Connor Attorney at Law

Sacramento Office 916.444.3900 tel 916.444.0707 fax roc@mhalaw.com

November 12, 2008

VIA E-MAIL AND U.S. MAIL

Janel Gifford
Office Engineer Unit
El Dorado County Transportation Department
2441 Headington Road
Placerville, CA 95667

Re: Bid Protest

U.S. 50 HOV Lanes Phase I - El Dorado Hills to Bass Lake Grade Project Contract No. 53110

Dear Ms. Gifford:

On behalf of Teichert Construction, this letter will respond to the letter dated November 7, 2008, from the attorney for Nehemiah Construction, Inc., Donald Struckman, and to the letter dated November 10, 2008, from the attorney for Granite Construction Company, Robert Leslie.

RESPONSE TO STRUCKMAN LETTER:

Mr. Struckman's lengthy letter fails to address the core issue with respect to Nehemiah's bid and is replete with factual inaccuracies. It is beyond reasonable dispute that Nehemiah's bid is irregular for the reasons discussed in detail in prior correspondence. The core issue is whether the irregularities are "minor" or "inconsequential" and therefore subject to waiver by the County or the type of irregularities which as a matter of law cannot be waived.

Nehemiah made at least two significant mistakes in filling out its bid form:
(1) Nehemiah listed three subcontractors, which it now says it intends to use on the project, on the wrong form, i.e., on the form entitled "Bidder's List of Subcontractors (DBE and Non-DBE) – Part II" instead of the form entitled "Bidder's List of

Sacramento 555 Capitol Mali 9th Floor Sacramento CA 95814-4892 tel 916 444.3900 toll free 800.403.3900 fax 916.444.8334

Oakland
1901 Harrison Street
9th Floor
Oakland CA
94612-3501
tel 510 273.8780
toll free 600 339.3030
fax 510,638.9104

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Janel Gifford November 12, 2008 Page 2

Subcontractors (DBE and Non-DBE) – Part I;" and (2) in filling out both the "Bidder's List of Subcontractors (DBE and Non-DBE) – Part I" and the "Bidder's List of Subcontractors (DBE and Non-DBE) – Part II," Notherniah stated the percentage of the category of work to be performed by each listed subcontractor instead of the percentage of Nehemiah's total bid price that the listed subcontractor will perform.

These are fatal defects – defects which cannot be waived as minor or inconsequential irregularities. As stated in my prior letter to you, the law is very clear on this point: if a bid contains a mistake which makes that bid materially different than the bidder intended, and if the mistake was made in filling out the bid form, then the resulting irregularity cannot be waived because to do so would give the bidder an advantage not available to other bidders, i.c., an opportunity to withdraw its bid. This is the clear and direct holding of Valley Crest Landscape v. City of Davis, 41 Cal. App.4th 1432 at 1442 (1996), discussed in greater detail in my prior letter.²

Teichert's reliance on Valley Crest is further supported by the Court of Appeals' decision in MCM Construction. Inc. v. City & County of San Francisco, 66 Cal. App. 4th 359 (1998). In that case, the low bidder, MCM, "listed nine subcontractors, but failed to identify, as required, the price to be paid to seven of those subcontractors. MCM also failed to describe the work to be performed by one of the subcontractors." Id. at 365. In light of these irregularities, the awarding authority rejected MCM's bid as non-responsive. The Court of Appeals upheld the awarding authority's decision, stating: "We believe that the failure to state dollar amounts of work to be performed by seven of nine subcontractors is, like the misstatement of the correct percentage of work to be done by subcontractors in Valley Crest, 'in the nature of a typographical or arithmetical error.' As such, MCM could have sought relief under the statute and had an advantage not available to other bidders." Id. at 377.

Mr. Struckman attempts to explain away the mistakes in Nehemiah's bid by obfuscation. First, he argues that the bid forms were ambiguous, which certainly is not the case. The Part I subcontractor listing form clearly states, "USE THIS FORM TO LIST ONLY SUBCONTRACTORS THAT WILL WORK ON THIS PROJECT." If this were not clear enough, the Part I form further states: "(Use

Nehemiah's attorney admits this mistake on page 2 of his letter: "NCI acknowledges that it inadvertently listed three subcontractors that it fully intended to use on page 14 of the bid proposal," and admits it again on page 3: "The fact that NCI used page 14 of the proposal to continue listing the subcontractors to perform work was merely an oversight by the individual filling out and submitting the bid proposal."

² It is worth noting that Valley Crest was decided by the Third District Court of Appeal, which is the appellate court with jurisdiction over matters arising from El Dorado County.



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'BIDDERS LIST OF SUBCONTRACTORS [DBE and NON-DBE]-Part II' form for subcontractors who submitted a quote or bid but were not selected to participate on this project.)" (Emphasis in original.) It is hard to see how this could be more clear.

Mr. Struckman also suggests that Nehemiah's mistake was caused by the County because the County only provided room on the Part I form to list four subcontractors. Again, this argument runs afoul of the plain language of the bid form. Specifically, the instructions at the top of the Part I form state: "Photocopy this form to list additional firms and attach the additional sheets to this page." (Emphasis in original.)

Mr. Struckman also incorrectly states on page 4 of his letter that "the list of rejected bidders was not supposed to be included with the bid, but instead to be submitted [sic] a day later." This means, according to Mr. Struckman's logic, that "the County had no reason to believe that page 14 was a list of rejected bidders ..." Once again, Mr. Struckman ignores the plain language of the applicable bidding documents. Item 3.04 of Addendum No. 3 clearly states that the Part II form "may be submitted with the Bidder's Proposal, or alternatively shall be faxed to ... County ... within 24 hours of the bid opening ..."

Lastly, Mr. Struckman broadly contends that public policy supports rejection of the protests submitted by Granite and Teichert because "there is no favoritism, extravagance, fraud or corruption in the award of the contract to Nehemiah." Although neither Granite nor Teichert are accusing Nehemiah or the County of corruption or anything similar, that is beside the point. As noted above, as a matter of law, the irregularities in Nehemiah's bid are such that they cannot be waived and that bid must be rejected as non-responsive.

Moreover, Mr. Struckman's contention ignores the strong public policy favoring protection of the integrity of the competitive bidding process. In Konica Business Machines U.S.A., Inc. v. Regents of University of California, 206 Cal.App.3d 449 (1988), the Court reminds us that because of "the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, the letting of public contracts universally receives close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside." The Court further states that this "preventative approach" must be applied "even when it is certain there was in fact no corruption or adverse effect upon the bidding process, and the deviations would save the entity moncy." This is true because "the importance of maintaining integrity in government and the ease with which policy goals underlying the requirement for open competitive bidding may be surreptitiously undercut, mandate strict compliance with bidding requirements." Konica at 456-57.



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RESPONSE TO LESLIE LETTER:

Mr. Leslie attempts to explain away Granite's mistake in filling out the percentage of work to be performed by its listed subcontractors by arguing that Granite's mistaken interpretation of the bidding documents was not a mistake at all. In doing so, Mr. Leslie relies on one phrase in isolation, ignores other parts of the bidding documents, and overlooks the clear underlying purpose of requiring bidders to list the percentage of work to be performed by their subcontractors.

Read entirely in isolation, the phrase "the percentage of each item the subcontractor will work on," can be read in the manner which Granite apparently interpreted it. However, this phrase must not be read in isolation. In the very same sentence, the bidding documents refer to "portions of the work in an amount in excess of 0.5% of the total," which plainly refers to percentage in terms of the percentage that the listed subcontractor's work represents of the bidder's total bid price. See Section 2-1.054 of the Special Provisions. This is, of course, the normal and customary way the term percentage is used in this context.

Mr. Leslie's argument also ignores Section 5-1.16 "SUBCONTRACTING," of the Special Provisions. This section begins by noting that various sections of the Special Provisions must be read together: "Attention is directed to the provisions in Section 8-1.01, 'Subcontracting,' of the Standard Specifications, and Section 2, 'Proposal Requirements and Conditions,' and Section 3, 'Award and Execution of Contract,' of these special provisions." Section 5-1.16 goes on to state: "The information furnished under 'DBE Information' of these special provisions is part of the subcontractor information required to be furnished under Section 8-1.01, 'Subcontracting' and Section 2-1.054, 'Required Listing of Proposed Subcontractors,' of the Standard Specifications. See the forms entitled 'BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) — Part I' and 'BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) — Part II' that are located in the Proposal section of these Contract Documents."

After carefully noting the interconnectedness of these provisions and requirements, Section 5-1.16 then states that the "provisions in the third paragraph of Section 8-1.01, 'Subcontracting,' of the Standard Specifications, that Contractor shall perform with the Contractor's own organization contract work amounting to not less than 50% of the original contract price, are not changed by the Federal Aid requirements ... of these special provisions ..." (Emphasis added.) Hence, the subcontractor percentages that each bidder must list on the form entitled "BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) - Part I" can only be percentages relevant to the requirement that the bidder perform 50% of the work with



Janel Gifford November 12, 2008 Page 5

its own forces. In contrast, listing percentages in the manner done by Granite (and Nehemiah) is nonsensical and serves no purpose whatsoever.

Mr. Leslie's attempt to explain away Granite's failure to include addresses for its listed subcontractors is even less persuasive. He states on page 4 of his letter that he is "unaware of any provision or law that defines 'address,' so as to require a post office box or street number or name." This argument ignores both the plain and ordinary meaning of the word address and, more importantly, the fact that the form entitled "BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) — PART I," provides blank spaces for (1) "Name & CSLB License Number,"

(2) "Address," and (3) "City State Zip". If "Address" meant only City and State as argued by Mr. Leslie, why was a separate space provided for "Address" in addition to City and State? If the intent was not to obtain a mailing address, why did the form require a Zip Code?

It is disingenuous for Granite to now argue that "Address" did not mean "Address" or that the "Address" information was unnecessary. If either statement was true, then why did Granite provide addresses for all non-listed subcontractors when it submitted its Part II subcontractor listing form?

REJECTION OF THE BIDS SUBMITTED BY NEHEMIAH AND GRANITE CARRIES NO RISK TO THE COUNTY OR TO THE INTEGRITY OF A SUBSEQUENT AWARD TO TEICHERT:

It is beyond dispute that both Nehemiah's bid and Granite's bid are irregular. Because this is true, the County has an absolute right to reject these bids, even if the irregularities are later determined to be minor and subject to waiver, which is extremely unlikely. As stated by the Court of Appeals in MCM Construction, Inc. v. City and County of San Francisco, 66 Cal. App. 4th 359 (1998): "An agency has discretion to waive immaterial deviations from bid specifications and may accept the bid under certain conditions. The point of discretion is that the agency may properly act in either direction. It may waive or refuse to waive such deviations." Id. at 374. In short, rejection of Nehemiah's bid and Granite's bid as non-responsive carries no risk to the County, whereas an award to either Nehemiah or Granite in the face of the manifest and significant irregularities in their bids is likely to be problematic.

CONCLUSION

Teichert's bid protest is well founded as to the bids of both Nehemiah Construction, Inc. and Granite Construction Company. These two bids must be rejected as non-responsive because they are irregular and the irregularities are such



Janel Gifford November 12, 2008 Page 6

that, as a matter of law, they cannot be waived. After rejection of these two bids, Teichert respectfully requests that the County award the contract to Teichert as the lowest responsive and responsible bidder.

Thank you for your attention to this matter.

Very truly yours,

Robert W. O'Connor

ROC:njr

cc: Clyde Hamilton (via email)

Patricia E. Beck, Esq. (via facsimile)
Donald K. Struckman, Esq. (via facsimile)

Robert L. Leslie, Esq. (via email)



2008 NOV 14 PM 2: 36

ATTACHMENT 11 NOVEMBER 10, 2008 LETTER FROM NEHEMIAH CONSTRUCTION RESPONDING TO A. TEICHERT & SON dba TEICHERT CONSTRUCTION'S BID PROTEST

DONALD K. STRUCKMANN

A Professional Law Corporation

915 Highland Pointe Drive, Suite 250 Roseville, California 95678

Tel: (916) 782-7900 Fax: (916) 784-7900

Mail All Correspondence to P.O. Box 877, Roseville, CA. 95661

November 10, 2008

Mr. Richard W. Shepard, P.E. Director of Transportation County of El Dorado 2850 Fairlane Court Placerville, California 95667

RECEIVED

NOV 13 2008

EL DORADO CO. -DOT OFFICE ENGINEER RECEIVED

NOV 1 2 2008

EL DORADO COUNTY EPT. OF TRANSPORTATION

Re: Bid Protest by Teichert Construction (November 7, 2008)

County Contract No. 53110: U.S. 50 HOV Lanes (Phase 1) Latrobe Road to Bass Lake

Bid Date: October 30, 2008

Dear Mr. Shepard:

I am writing on behalf of Nehemiah Construction, Inc. (NCI) to respond to and to request denial of the bid protest submitted by Teichert Construction Company (Teichert) on November 7, 2008. Teichert, like Granite, concedes that Nehemiah Construction is a responsible bidder and that the bid by NCI was the low bid on the project. Instead, Teichert protests the award of the above referenced contract to NCI on grounds that the bid was non-responsive in three respects. For reasons stated below, none of the bases offered by Teichert are correct and none warrant the setting aside of the award to NCI for the construction of the HOV Lanes, Phase 1 along US Highway 50 at El Dorado Hills to Bass Lake (JN 53110). NCI respectfully requests the El Dorado County Department of Transportation and the County Supervisors of El Dorado County deny the protest of Teichert and confirm the award of Contract JN 53110 to NCI.

1. Strong Public Policy Interests Govern the Review of the Protest.

This protest, as in all cases, is governed by law and policies established for the protection of the citizens and the taxpayers of El Dorado County. The purpose of competitive bidding is to guard against favoritism, extravagance, fraud and corruption, and to secure the best contract work at the lowest price. It is the <u>public interest</u> that is at stake. The public agency should review the bid protest of Teichert in a sensible and practical way to achieve these purposes.

A deviation from the prescribed bid procedures should only be cause for setting aside of the winning bid if the "deviation is found to be capable of facilitating corruption or extravagance, or likely to affect the amount of bids or the response of potential bidders." *Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal. 4th 161, 176; *MCM Const., Inc. v. City & County of San Francisco* (1998) 66 Cal. App. 4th 359, 369.

Further, the County of El Dorado reserves to itself the authority to waive any irregularity in a bid. The County reasonably exercised that discretion at the bid opening to accept the seven listed subcontractors despite the mistaken form used for listing three of the declared trade subcontractors.

In this instance no public interest would be served by setting aside the bid of this contractor and accepting a bid by Teichert that would increase the public cost by \$2 million dollars. Nor can it be said that the irregularity of the form of the bid in placing some subcontractor names on a form intended for other non-accepted subcontractors could have had any possible effect on the amount of bids or the response of potential bidders.

The bid by Nehemiah is fully and properly responsive to the invitation to bidders for the aforementioned project in all respects. The Teichert protest attempts to capitalize on a minor irregularity and technicality to take unfair advantage of the County of El Dorado.

2. Nehemiah's Bid Is Fully Responsive in that NCI Listed all Subcontractors Which It Intends to Employ.

Teichert mistakenly claims that NCI made a mistake in bid that would allow it the right to withdraw its bid and thus gain an advantage over other bidders. NCI's mistake was in form rather than substance and does not amount to an error entitling NCI to withdraw its bid. NCI correctly listed 7 subcontractors in its bid. It's only error was the use of form II instead of form I. That error was quickly noticed at bid opening and corrected. NCI suffered no harm. There is no bid mistake on which to seek relief. NCI complied with the bid requirements and stands by its bid. Please see my response to the Granite Protest for a more complete discussion of this issue.

3. Nehemiah's Bid Properly Listed All Subcontractors and the Percentage of Each Item of Work to be Performed by that Subcontractor.

The protest mistakenly contends that NCI's bid is non-responsive because it calculated the percentage of work differently than Teichert. The Notice to Bidders for this project specifies that each proposal list "each subcontractor, including the percentage of each item the subcontractor will work on to whom the bidder proposes to subcontract portions of the work in an amount in excess of ½ of 1% of the total contract. [emphasis added] That is precisely how NCI presented its list of subcontractors. The Notice to Bidders does not ask for the percentage of the total contract bid as argued by the Teichert protest.

The specified method allows for determination of whether the bidder meets the requirement to self-perform 50% or more of the total contract. The amount subcontracted is determined by identifying each item of work to be performed by the subcontractor from the subcontractor list and subtracting the listed percentage of the bid price of that item from the total bid. If the aggregate amount of work subcontracted is less than 50% then the bid is responsive. In this case the aggregate value of the items of work disclosed as being performed by subcontractors is far less than 50%.

The County's formula allows for greater accuracy in distinguishing the amount of each item of work being self-performed from the work of the item being performed by outside vendors. The Teichert interpretation incorrectly assumes that the trade contractor is performing 100% of the item of work when in some cases the outside vendor will only perform a portion of a particular category of work. Thus, the method used by both NCI and Granite provides the County a more accurate report of the work planned to be self-performed and subcontracted to outside vendors.

There is no benefit to the County in adopting the mistaken interpretation by Teichert. The County is best served by denying the protest and awarding the contract to NCI so work can begin.

4. Nehemiah's Bid is Balanced.

Teichert contends that the entire NCI bid is imbalanced because the amount of one category (item 9, traffic control), is significantly less than two of the other bidders. Teichert suggests hypothetically that the amount might allow for a higher amount on some other early item. But, Teichert offers no suggestion that this actually occurred.

NCI is able to offer a more economical bid for traffic control because it self performs this type of work at a more efficient unit cost and in a more efficient manner. It is common for competing contractors to allocate costs differently. Such differences do not necessarily demonstrate any unbalancing. The difference between NCI and Teichert in their bids for traffic control may be due to Teichert substantially overbidding (unbalancing) this item so as to lock in profits on a category of work that is not subject to reduction for quantity variations. Approval of this protest would reward a bidder who is less efficient at the greater cost to the taxpayers of El Dorado County.

5. The Public Interest Can Only be Served by Denial of the Teichert Protest.

The award to Nehemiah achieves the public purpose of obtaining products at the lowest practical cost to the County. There is no indication or claim of any favoritism, extravagance, fraud or corruption in the award of the contract to Nehemiah. There is at most, a very minor irregularity in the use of a form which was quickly corrected. NCI satisfied the objectives of the bid process by properly disclosing all of its subcontractors. No valid public policy would be served by upholding the Teichert protest.

NCI requests that the County dismiss the above referenced protest submitted by Teichert and award the contract to Nehemiah Construction, Inc., as the lowest responsible and responsive bidder.

May Miney

DKS: jas

cc: Mr. Robert W. O'Connor

ATTACHMENT 12 NOVEMBER 13, 2008 EMAIL FROM A. TEICHERT & SON dba TEICHERT CONSTRUCTION RESPONDING TO NEHEMIAH CONSTRUCTION'S BID PROTEST

"Bob O'Connor"

<box>

<br

To <peb@co.el-dorado.ca.us>

11/13/2008 09:55 AM

cc "Clyde Hamilton" < CHamilton@teichert.com>

Subje Hwy 50 HOV Lane Project -- Bid Protest

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Patricia,

At the risk of trying your patience, I wanted to take just a minute to correct the record with respect to one argument contained in Mr. Struckman's letter dated November 10th, which I did not receive until yesterday.

On page 2 of his letter, Mr. Struckman argues that the County can determine compliance with the 50% self-performed work requirement notwithstanding the method of listing subcontractor percentages used by Nehemiah (and Granite), i.e., listing the percentage of each category of work to be performed by the listed subcontractor rather than the percentage of Nehemiah's total bid price that the listed subcontractor will perform. This is simply not true.

One example will suffice. On its Part I subcontractor listing form, Nehemiah listed Chrisp Co. for striping and stated a percentage of 80%. According to Mr. Struckman, we should be able to go to the bid items, find "striping" and Nehemiah's bid price for that bid item, and then back into a percentage of Nehemiah's total bid price. The problem with this theory is that there is no single bid item called "striping." Instead, there are a number of bid items which might or might not be included within the general category of striping, including Item 12 Temporary Pavement Marking (Paint), Item 13 Temporary Traffic Stripe (Paint), Item 163 Thermoplastic Traffic Stripe, Item 164 Thermoplastic Pavement Marking, Item 165 Paint Traffic Stripe, Item 166 Paint Pavement Marking, Item 167 Pavement Marker (Non-Reflective), and Item 168 Pavement Marker (Retroflective). Most if not all of the other categories of subcontracted work listed by Nehemiah (and Granite) present similar difficulties.

Thank you again for your attention to this matter.

Regards, ROC

P.S. Please send a copy of the Department's recommendation concerning award to me and to Clyde Hamilton at Teichert (email address above) as soon as it becomes available.

Robert W. O'Connor

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ATTACHMENT 13
NOVEMBER 14, 2008 LETTER FROM NEHEMIAH
CONSTRUCTION RESPONDING TO A. TEICHERT & SON dba
TEICHERT CONSTRUCTION'S NOVEMBER 12, 2008 BID
PROTEST

p. 1

DONALD K. STRUCKMANN A Professional Law Corporation

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FAX COVER SHEET

DATE: **November 14, 2008**

Richard W. Shepard, P.E. - El Dorado County Director TO:

FAX #: (530) 626-0387

TO: David Livingston, Esq. -El Dorado County Counsel

FAX: (530) 621-2937

DONALD K. STRUCKMANN, Esq. FROM:

FAX #: (916) 784-7900

Bid Protest By Teichert Construction (November 7, 2008) RE:

Hwy 50 HOV Lane Project - Bid Protest

See my letter dated November 14, 2008 to Richard W. Shepard and David Livingston on behalf of Nehemiah Construction, Inc.

This transmission consists of $\frac{\mathcal{L}}{2}$ pages, including this cover sheet. Please CALL (916) 782-7900 IF ANY PAGES ARE MISSING, FIRST CLASS MAIL TO FOLLOW.

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November 14, 2008

Mr. Richard W. Shepard, P.E. Director of Transportation County of El Dorado 2850 Fairlane Court Placerville, California 95667

Re: Bid Protest by Teichert Construction (November 7, 2008)

County Contract No. 53110: U.S. 50 HOV Lanes (Phase 1) Latrobe Road to Bass Lake

Bid Date: October 30, 2008

Dear Mr. Shepard:

I am writing on behalf of Nehemiah Construction, Inc. (NCI) to further respond to the letter by counsel for Teichert dated November 12, 2008. For reasons stated in my prior letter and as explained below, Nehemiah construction requests the County deny the bid protest submitted by Teichert Construction Company (Teichert) submitted on November 7, 2008.

1. Issue of Whether The Discrepancy is Minor and Inconsequential. Teichert correctly frames the issue of whether there was a minor and inconsequential irregularity which may be waived by the County or a mistake in the bid that cannot be waived. But, Teichert incorrectly interprets the holding of Valley Crest Landscape, Inc. v. City Council (1996) 41 Cal. App. 4th 1432 in arguing that the irregularity in this instance is of such magnitude as to render the bid non-responsive and not within the authority of the County to waive such an irregularity. In Valley Crest the contractor's bid listed subcontract work totaling 83% of the total contract work in violation of the requirement that at least 50% be self performed. The bid was non-responsive on its face. The City invited the low bidder to withdraw its bid or revise it to bring it into compliance. The low bidder attempted to make the bid responsive by revising the allocation of work in its bid to reach the 50% requirement.

The appellate court held that the requirement of 50% was a material element of the bid requirements that could not be waived and thereby upheld the protest. That error involved the substantive and monetary content of the bid. In contrast here, there is no error in the content or the amount of the bid. Nehemiah submitted its bid and listed seven subcontractors. The bid disclosed that Nehemiah would self-perform far in excess of 50% of the work. The Nehemiah bid IS responsive. The list of subcentractors was contained on two pages, one of which was an incorrect form. That deviation did not affect the total amount of the bid or percent ages of work performed by subcontractors and thus did not render the bid non-responsive under the holding of Valley Crest.

The Nehemiah bid was fully responsive in that all the necessary information was fully disclosed on the face of the bid forms submitted at the time of the bid. This is the standard that is

discussed in Vailey Crest. The purpose of the bid statutes is to prevent bid shopping. (p. 1339) The deviation of the form used for the second of two pages of a list of subcontractors does not in any way allow for bid shopping. The content is completely accurate and compliant with the 50% rule.

The law requires substantial accuracy. "However, it is further well established that a bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given the hidder an advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential." (ld., pp 1339, 1440). That is the circumstance here. There is no advantage to Nehemiah. There is no good reason to reject the Nehemiah bid.

2. There was no mistake that would warrant withdrawal of the bid by Nehemiah. Its bid amount and list of subcontractors and percentages of each item of work were all accurately stated. Nehemiah's bid is not materially different from what it intended to bid. There was no typographical or clerical error in the monetary content of the bid. The form used for the last three subcontractors does not make the "the bid materially different than intended" as required for a request to withdraw a bid under Civil Code Section 5103. The concept of a mistake is in the information submitted. The ambiguity here is with the pre-printed portion of the form which calls submission after the bid of a list of subcontractors who were not selected.

Common law rules of contract interpretation look to the four corners of the document. In this case the seven subcontractors each represented different work categories. The Part I form called for subcontractors of each category who would be employed and Part II called for a list of the same categories of subcontractors who would not be used. This called for one subcontractor for each category of work not self-performed on Part I and one or many more subcontractors for the same category who bid for the same work and which were rejected. The last three names were not competitors of the first four named subcontractors. The last three complemented the first four and completed the list of accepted subcontractors. That is the plain, and only reasonable reading of the two page submittal.

Teichert argues that Nehemiah gained a competitive advantage by submitting a bid that could be withdrawn by reason of mistake. But, Teichert is unable to suggest how the actual irregularity could rise to the level of a bid mistake warranting a withdrawal of the bid without forfeiture of the bid bond. Bid mistakes resulting in withdrawal involve misplaced decimals, reversals of prices, and mistakes in designation of units. All involve monetary errors that result from clerical rather than judgment error. No such errors are present in this case.

The amount of the Nehemiah bid does not change whether the last three trades are included or excluded from its bid. The allocation of categories of work does not change. There is no economic change of any kind. The irregularity has absolutely no effect on price, quantity, quality, or delivery. There is no potential cost savings to Nehemiah that would give it any incentive, let alone legal basis, to seek relief from its bid. There is no rational or legal basis for Nehemiah to withdraw its bid.

The County did not deem the Nehemiah bid to be non-responsive at bid opening. It did not offer Nehemiah the opportunity to withdraw its bid as was the case in Valley Crest. Thus, Nehemiah gained no competitive advantage by the form of its listing of subcontractors.

This distinction is noted in the decision of Ghilotti Construction Co. v. City of Richmond (1996) 45 Cal. App. 4th 897, FN6. That case also ruled on an instance where the work subcontracted exceeded 50%. That court held that the proper test was whether the deviation would give the lowest bidder a competitive advantage in allowing it to submit a lower bid. If there was no competitive advantage then the deviation was deemed inconsequential. Nehemiah gained no competitive advantage in the manner in which it listed the seven subcontractors. The amount of its bid could not have changed even had Nehemiah used Part I for both pages of its list of subcontractors.

3. A bid is responsive if it promises to do what the bidding instructions require. MCM Const., Inc. v. City & County of San Francisco (1998) 66 Cal. App. 4th 359, 368. Nehemiah's bid promises to do exactly what the instructions require. It does not matter whether the last three subcontractors are included in the bid. The bid could be interpreted exactly as claimed by Granite and still be responsive. Nehemiah's bid could be read to propose that it would self-perform all work except the categories of work subcontracted to the trade contractors listed only on the first page. Indeed, Nehemiah's bid would be responsive if it bid to self-perform the entire job. It is immaterial and inconsequential whether Nehemiah bid to employ the last three trade contractors or rejected their offers of work. Nehemiah is unquestionably a responsible bidder. It can perform the work exactly as called for by the instructions.

4. The County Does Not Need to Waive any Irregularity to Accept the Nehemiah Bid.

Nehemiah's bid honestly reports that Nehemiah intends to subcontract some of its work. The total work subcontracted is well below 50%. Granite and Teichert contend that Nehemiah actually intended to exclude three of its listed subcontractors. If their position were accepted then Nehemiah's percentage of self-performed work would only increase even higher above the 50% baseline. Nehemiah claims no mistake of its intent. But, even if the County believes the protestors, there would be no impact upon the ability of Nehemiah to perform the work. Nehemiah is the responsive low bid even under the interpretations urged by the protesters.

Nehemiah again requests that the County dismiss the above referenced protest submitted by Teichert and award the contract to Nehemiah Construction, Inc., as the lowest responsible and responsive hidder.

DKS las ce Mr Robert W O'Connor