

RECORDING REQUESTED BY

COUNTY OF SANTA CLARA

RCVD
BD OF SUPERVISORS
CO. OF SANTA CLARA

DOCUMENT: 13744097



0013744097

Titles: 1 / Pages: 2

Fees: ... * No Fees

Taxes: ...

Copies: ...

AMT PAID

WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County Government Center
70 West Hedding, 10th Floor
San Jose, CA 95110

97 JUL 11 10:15

BRENDA DAVIS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
County Agency

RDE # 003
6/17/1997
10:50 AM

6-10-97 # 48

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

NOTICE OF COMPLETION OF CONTRACT AND ACCEPTANCE OF WORK

DOCUMENT TITLE

SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD AT
LAWRENCE EXPRESSWAY

CONTRACT NO. 95-22

SEPARATE PAGE PURSUANT TO GOVT CODE 27361.6

ORIGINAL

NOTICE OF COMPLETION OF CONTRACT AND ACCEPTANCE OF WORK

NOTICE IS HEREBY GIVEN by order of the Board of Supervisors of the County of Santa Clara, State of California, pursuant to State law, that the work to be performed under the contract heretofore made and executed by and between the County of Santa Clara, as owner herein, and

Granite Construction Company
120 Granite Rock Way
San Jose, California 95136

as Contractor therein, bearing the date September 19, 1995

for construction of "Seismic Retrofit and Widening of Sunnyvale Overhead at
Lawrence Expressway"

Contract No. 95-22, and appurtenant facilities upon lands of said County known as

Sunnyvale Overhead at Lawrence Expressway

situated in the County of Santa Clara, State of California, was completed by the Contractor, and the work was accepted by the said Board

on behalf of said County on June 10, 1997

Upon said contract, Federal Insurance Co. #8144-8017

was surety on the bond given by said Granite Construction Company

the said Contractor, as required by law.

That the nature of the ownership interest of said County in the real property upon which said work and contract was performed

is that of Fee Simple Absolute

That the mailing address for the Clerk of said Board for the County is 70 West Hedding Street, 10th Floor, East Wing, San Jose, California, 95110.

IN WITNESS WHEREOF, pursuant to the order of the Board of Supervisors made and given on June 10, 1997,
authorizing and directing the extension of its name, authenticated by the signature of the Clerk of said Board of Supervisors on
June 10, 1997

Ann Sloan

Deputy Clerk BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
of the Board
of Supervisors

Deputy Clerk
of the Board
of Supervisors

I hereby declare that I am the Deputy Clerk of the County of Santa Clara and that I make this oath on its behalf; that the County of Santa Clara is the owner of the real property interest described in the foregoing Notice; that I have read the foregoing Notice and know the contents thereof, and the facts therein stated are true of my own knowledge.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct, and was

executed at San Jose, California, on June 10, 1997

Ann Sloan
Deputy Clerk
of the Board
of Supervisors

ORIGINAL

DOCUMENT DISTRIBUTION	
<u>6-10-97</u> Meeting Date	<u>48</u> Item Number
<input type="checkbox"/> Budget & Anlys <input type="checkbox"/> Co Counsel <input type="checkbox"/> Co Executive <input type="checkbox"/> Emp Svc Ag <input type="checkbox"/> Env Res Ag <input checked="" type="checkbox"/> Finance Ag Controller <input type="checkbox"/> Gen Svc Ag <input type="checkbox"/> Hosp & Clinics <input checked="" type="checkbox"/> Rds & Airports Admin - Ruby Johnson <input type="checkbox"/> Soc Svc Ag <input checked="" type="checkbox"/> Recorder 6-17 <input type="checkbox"/> Original & copy	<input checked="" type="checkbox"/> Contractor Duplicate orig. + recorded copy <input type="checkbox"/> Muni Code <input type="checkbox"/> Newspaper: <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input checked="" type="checkbox"/> Pony <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Pick-Up
<u>Erline Jones</u> Processed By	<u>7-3-97</u> Date

recorded copy received 7-11-97
 sent lcc to Roads Attn. Ruby Johnson
 46 9-23-97

This date
 will be
 used for
 the purpose of

CHANGE ORDER
COUNTY OF SANTA CLARA, CALIFORNIA
ROADS & AIRPORTS DEPARTMENT

Sheet 1 of 1

SD No. 3 & 4

Date of Contract September 19, 1995

Change Order No. 1-FINAL

Original Bid \$2,090,443.45

Contract No. 95-22

Amount as of last C/O \$2,090,443.45

Original Allowed Time Two Hundred & Twenty (220) Working Days
Time as of last C/O Two Hundred & Twenty (220) Working Days

Project Seismic Retrofit and Widening of Sunnyvale Overhead at Lawrence Expressway
Contractor Granite Construction Company Address 120 Granite Rock Way
San Jose, CA 95136
(408) 722-2716

The following change in construction is proposed: (Attach additional sheets if necessary)

INCREASE OF CONTRACT ITEMS OF WORK:

Item 06	Temporary Traffic Stripe (Tape)	39.00 L.F.	@	1.65	\$	64.35
08	Temporary Pavement Marker	60.00 EA	@	3.15		189.00
31	Minor Concrete (Curb & Sidewalk)	4.50 C.Y.	@	790.00		3,555.00

TOTAL INCREASE: \$ 3,808.35

DECREASE IN CONTRACT ITEMS OF WORK:

Item 01	Supplemental Work	83,567.57 L.S.	@	1.00	\$	83,567.57
07	Temporary Traffic Marking (Tape)	300.00 S.F.	@	10.50		3,150.00
09	Temporary Railing (Type K)	104.00 L.F.	@	12.80		1,331.20
16	Asphalt Concrete (Type B, 1/2" Max. Gr.)	60.54 TON	@	82.00		4,964.28
23	Drill & Bond Dowel	19.00 L.F.	@	28.00		532.00
33	Metal Beam Guard Railing (Wood Post)	16.00 L.F.	@	25.00		400.00
34	Chain Link Railing (Type 7)	18.00 L.F.	@	30.00		540.00
35	Concrete Barrier (Type 26)	20.00 L.F.	@	80.00		1,600.00
37	Paint Traffic Stripe	7,451.00 L.F.	@	.15		1,117.65
38	Place Pavement Marker	87.00 EA	@	2.95		256.65
42	Potholding	4.00 EA	@	1,262.00		5,048.00

TOTAL DECREASE: \$102,507.35

Net (~~XXXXXX~~) (Deduction) due to this Change Order - \$ 98,699.00

The contractor hereby agrees to furnish or delete, as the case may be, any and all labor, material and equipment required for the performance of this change order in strict accordance with the terms and conditions of the contract documents. The contractor further agrees that the amount specified herein for this change order shall constitute full and complete compensation for all labor, material and equipment furnished, used or deleted, as the case may be, in the performance of this change order. The contractor further agrees that the amount specified herein for this change order shall be full and complete compensation for any and all claims of any nature whatsoever, including, but without limitation, any actual or alleged claims for compensation by contractor or any subcontractor of contractor for delays occasioned by or in any way arising out of stoppage of the work, coordination of the work with others, or processing this change order.

Twenty-Nine (29)

Contract Time: (~~XXXXXX~~) (~~Decreased~~) (☒) Increased by Working days (~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~)

Accepted by: [Signature] Date: 5-22-97
Contractor

APPROVAL RECOMMENDED

[Signature]
Construction Manager
Michael Griffin for RBP
Branch Manager, Design & Construction Operations

[Signature]
Project Engineer
Rollo Parsons
Director, Roads & Airports Department
[Signature]
Roads & Airports Finance

APPROVED

County Executive [Signature] Date: 6-10-97
() Bd. Files () Contractor (2) () Construction Div. (2) () Controller
Chairperson - Board of Supervisors
JAMES T. BEALL, JR.

ORIGINAL

JUN 10 1997

DOCUMENT DISTRIBUTION

6-10-97

Meeting Date

48

Item Number

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- ☒ Contractor
- ☐ Muni Code
- ☐ Newspaper:

- ☒ Pony
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- ☐ Pick-Up

Duplicate Orig

Controller

Admin

Ruby Johnson

Erline Jones

Processed By

7-3-97

Date

Approved Accepted Adopted Deferred Presented

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110

BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
Phyllis A. Perez, Clerk of the Board

By Erline Jones
Deputy Clerk

Date: 6-10-97



RA-1

TRANSMITTAL MEMORANDUM

Prepared by: GVS Greg Stutz

S.D.: 3 & 4

Reviewed by: H. L. Hancock HLH

Submitted by: for Rollo Parsons mr

Date: May 19, 1997

COUNTY BOARD OF SUPERVISORS: Agenda Date: June 10, 1997

Item No. _____

FROM: RP Rollo Parsons, Acting Director
Roads and Airports Department

SUBJECT: Seismic Retrofit and Widening of
Sunnyvale Overhead at Lawrence Expressway
Contract No.: 95-22 / PCA #C3475 / Fed. #DPC-0040(001) / STPLNZ - 5937(019)
Contractor: Granite Construction Company
Change Order No. 1-FINAL

RECOMMENDED ACTION:

It is recommended that the Board approve Contract Change Order No. 1-FINAL to Contract No. 95-22, "Seismic Retrofit and Widening of Sunnyvale Overhead at Lawrence Expressway," with a decrease of \$98,699.00 and with an increase of twenty-nine (29) working days of contract time. It is also recommended that the Board authorize the execution of the Notice of Completion of Contract and Acceptance of Work.

FISCAL IMPLICATIONS:

There is no fiscal impact to the County General Fund. Funds for this action are budgeted in the Road Fund Budget Account No. 603-0023-6435-2900 & 2910.

CONTRACT HISTORY:

Contract No. 95-22 was awarded to Granite Construction Company on September 19, 1995. The Notice to Proceed was issued on October 23, 1995, with the first charged day being October 19, 1995. The contract amount was \$2,090,443.45, with two hundred and twenty (220) working days of allotted time.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., S. Joseph Simitian
County Executive: Richard Wittenberg



7405

ORIGINAL

6-10-97

DATE: May 19, 1997

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 10, 1997

SUBJECT: Seismic Retrofit and Widening of
Sunnyvale Overhead at Lawrence Expressway
Contract No.: 95-22 / PCA #C3475 / Fed. #DPC-0040(001) / STPLNZ - 5937(019)
Contractor: Granite Construction Company
Change Order No. 1-FINAL

REASONS FOR RECOMMENDATION:

All work authorized under this contract has been completed in the field and the final inspection held.

The increases and decreases in the contract items of work represent adjustments from the previously approved quantities to those expended to complete the project in the field.

A final and balancing change order resulting from monetary adjustments in bid items, as provided for in the Contract Documents under the sections dealing with "measurement and payment", requires a simple majority vote by the Board if the contract amount is not being exceeded, or if such adjustments are made pursuant to the supplemental work allowance item of the Contract Documents. This is the final action required by the Board for acceptance of the contract and to authorize the filing of the Notice of Completion of Contract and Acceptance of Work.

BACKGROUND:

The existing bridge consisted of three (3) spans of steel plate I-girder bridge approximately 361 feet in length. The bridge was widened 18' 2" on the east side by adding two (2) steel plate I-girders supported on widened reinforced concrete bent and caps with pile foundations. The reinforced concrete deck section provides for an additional two (2) lanes of High Occupancy Vehicle (HOV) traffic capacity and a five (5) foot sidewalk.

CONSEQUENCES OF NEGATIVE ACTION:

As construction is complete, the County is obligated to execute the Notice of Completion which allows for release of retentions in accordance with the Standard Specifications, Section 7.43 - "Acceptance of Work." Negative action would render the County in noncompliance with Section 7.43 of the Specifications and would preclude the County from making the final payment to the Contractor.

STEPS FOLLOWING APPROVAL:

Send one executed copy of this transmittal and change order to Ruby Johnson of the Roads & Airports Department and one copy to the Controller's Office. Forward the Notice of Completion of Contract and Acceptance of Work to the Office of the County Recorder for filing.

RBP:HLH:lp --- Attachments

cc: RBP

County Finance
GR, GWS, DLB, SJB, SVE, SRO, ANM

CHO95-22

DOCUMENT DISTRIBUTION

6-10-97

Meeting Date

48

Item Number

- ☐ Budget & Anlys
- ☐ Co Counsel
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- ☒ Finance Ag
- ☐ Gen Svc Ag
- ☐ Hosp & Clinics
- ☒ Rds & Airports
- ☐ Soc Svc Ag
- ☐ _____
- ☐ _____

- ☐ Contractor
- ☐ Muni Code
- ☐ Newspaper:

- ☐ _____
- ☐ _____
- ☐ _____

- ☒ Pony
- ☐ Mail
- ☐ Fax
- ☐ Pick-Up

Erline Jones

Processed By

7-3-97

Date

Controller
Admin - Ruby Johnson

County of Santa Clara

Office of the Clerk of the Board of Supervisors

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110-1770
(408) 299-4321 FAX 298-8460 TDD 993-8272



Phyllis A. Perez
Clerk of the Board

July 3, 1997

D. H. Watts, President
Granite Construction Company
120 Granite Rock Way
San Jose, CA 95136

Dear Mr. Watts:

SUBJECT: CONTRACT CHANGE ORDER NO. 1-FINAL/NOTICE OF
COMPLETION OF CONTRACT AND ACCEPTANCE OF WORK
FOR: SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD
AT LAWRENCE EXPRESSWAY, CONTRACT NO. 95-22

Enclosed for your records you will find an originally signed copy of the Contract Change Order relating to the above-noted project, a fully executed duplicate original of the Notice of Completion, as well as a copy of the Recorded Notice of Completion which the Board of Supervisors approved at its regularly scheduled meeting on June 10, 1997.

Very truly yours,

Erline Jones
Erline Jones
Deputy Clerk

Enclosures 3

f cc: Roads and Airports Department

Approved Accepted Adopted Denied Presented

County of Santa Clara

Roads and Airports Department

BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
Phyllis A. Perez, Clerk of the Board

By Erlene Jones
Deputy Clerk

Date: 8-19-95



3333 North First Street
San Jose, California 95134

REPORT ON BIDS

TO: COUNTY BOARD OF SUPERVISORS For Board Approval on August 29, 1995

Bid Opening Date: July 27, 1995 Number of Bids: 6

Project: Seismic Retrofit and Widening of Sunnyvale O.H. at Lawrence Expwy.
Bridge No. 37C-198 Federal Project No. DPC-0040(001), STPLNZ-5937(019)

Engineer's Estimate: \$ 2,500,000.00 DBE Goals 17 % ☐ N/A
Reasonable Price: \$ 2,750,000.00 Actual DBE 23 % Met Goals or Good Faith Effort
Low Bid: \$ 1,948,870.00 ☒ Yes ☐ No

By: Lionsgate Corporation, P.O. Box 408, Alamo, CA 94507

- ☐ Recommend Award to Low Bidder & Ratification of Addenda No. None (Attached)
- ☐ Recommend Award to 2nd (2nd, 3rd, 4th) Low Bidder: Granite Construction Company
and Ratification of Addenda No. None (Attached).

Actual DBE 36 % Met Goals or Good Faith Effort
☒ Yes ☐ No

Bid: \$ 2,090,443.45

- ☐ Postpone Award week(s) Pending Approval of Board of Supervisors.
- ☐ Reject All Bids. Readvertise on; With Bid Opening on
(Date) (Date)
- ☐ Reject All Bids. Low Bid Higher Than Reasonable Price.
-
- ☐ Significant Variance (see attached report)
- ☐ Bid Irregularity (see attached report)
- ☐ See attached bid protest and response from County Council, Bill Anderson

Approved: [Signature] Project Manager (Gamini Rajapakse) (408) 321-7144 08-21-95
(phone) (Date)

[Signature] DBE Officer (Eleanore Solarez)

[Signature] Branch Manager (Rollo Parsons)

[Signature] Department Director (Christine Fischer)

DOCUMENT DISTRIBUTION

9-19-95
Mailing Date

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- ☐ Hosp & Clinics
- ☒ Hqs & Airports
- ☐ Soc Svc Ag

- ☐ Contractor
- ☐ Muni Code
- ☐ Newspaper

- ☐ _____
- ☐ _____
- ☐ _____

Admin

- ☐ Pony
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Eveline Jones
Processed By

11-16-95
Date

SANTA CLARA COUNTY BOARD OF SUPERVISORS
PROCESSING RECORD - PLANS & SPECIFICATIONS

CODE ~~188~~ ROAD 2676 / Lawrence Exwy
Job Description Sunnyvale ^{SPRR} Overhead
Seismic Retrofit & Widening
CODE ROAD NO. _____ ROAD NAME _____
BID OPENING DATE: July 27, 1995 TIME: 2:00 Pm
Job No. _____ Contract Date _____

LIBRARY PROCESSING

1. ☒ Have Contract Drawings been attached?
2. ☒ Do you have Contract Specifications?
3. _____ Are all Addendums attached?
4. _____ Is there a Contract Inventory Sheet attached?
5. _____ Any Unsuccessful Bidders?
6. _____ Is there a Proof of Publication?
7. _____ Subject heading entered?

COMMENTS:

County of Santa Clara

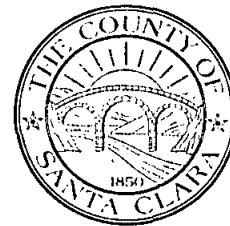
Roads and Airports Department

3333 North First Street
San Jose, California 95134

Approved Accepted Adopted Denied Presented

BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
Phyllis A. Perez, Clerk of the Board

By: Erline Jones
Deputy Clerk
Date: JUN 1 3 1995



TRANSMITTAL MEMORANDUM

Page 1 of 3

Prepared by: Gamini Rajapakse

S.D. 3

Reviewed by: Jim Randall

Submitted by: Rollo Parsons

Date: June 5, 1995

COUNTY BOARD OF SUPERVISORS: Agenda Date: June 13, 1995 Item No. _____

FROM: Christine Fischer, Director
Roads and Airports Department

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

RECOMMENDED ACTION:

Approve and authorize the advertisement of the contract documents for the seismic retrofit and widening of Sunnyvale Overhead Bridge (Br. 37C-198) on Lawrence Expressway at Caltrain Lawrence Station pending Right of Way Certification from Caltrans.

FISCAL IMPLICATIONS:

There is no fiscal impact to the County General Fund. Eighty percent (80%) of the total project cost will be reimbursed by Federal/State Demonstration Program Funds with Local Seismic Retrofit Program Funds reimbursing the retrofit work one hundred percent (100%). The remaining twenty percent (20%) of the Demonstration Program funds will be local Road Funds.

Sufficient funds for this project are budgeted in the current budget line items 0023-6435-2900 Commuter Lane Development, and 0023-6435-2910 Bridge Seismic Retrofit Program.

It is against County policy to publish the engineer's estimate prior to the project bid opening.

CONTRACT HISTORY:

The subject contract documents have been reviewed by Caltrans, Southern Pacific Transportation Company (SPTC), the cities of Santa Clara and Sunnyvale, and the Peninsula Corridor Joint Powers Board

CIA

DATE: June 5, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 13, 1995**SUBJECT:** CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

(PC-JPB) during the design stage. Caltrans has reviewed the final contract documents and granted project approval pending Right of Way Certification by Caltrans. This early action is being taken to keep this project on schedule during the period of time allocated for the Board of Supervisor's June 1995 budget sessions.

The Lawrence Expressway HOV lane project has been environmentally cleared by an Environmental Assessment with a finding of no significant impact under the National Environmental Policy Act (NEPA) and an initial study with a negative declaration under the California Environmental Quality Act (CEQA).

The Disadvantaged Business Enterprise (DBE) goal is 17%.

REASONS FOR RECOMMENDATION:

Approval of these contract documents and authorization to advertise the project will allow competitive bids to be submitted for award of the construction contract. This is the last major bridge construction contract for completion of the Lawrence Expressway HOV lane project.

Construction of the improvements as specified in the contract documents will widen and upgrade the bridge over PC-JPB Caltrain mainline tracts and SPTC spur line tracks to the current seismic design criteria and provide for additional traffic lanes for use by the high occupancy vehicles (HOV) on Lawrence Expressway.

BACKGROUND:

The Lawrence Expressway HOV Lane Program includes the construction of two additional lanes on Lawrence Expressway between State Route 237 in the north and Mitty Way in the south. To accommodate the HOV lanes the bridge structure at the subject location is required to be widened. Seismic retrofitting is part of the project.

In 1991 the Lawrence Expressway HOV Project was appropriated 10.1 million in Federal Highway Administration (FHWA), Intermodal Surface Transportation Efficiency Act (ISTEA) funds. Local matching funds are shared by the cities of Sunnyvale and Santa Clara and the County. On April 29, 1994 the State provided notice that \$1,616,000 additional funds had been allocated for seismic retrofit of the three bridges to be widened for this HOV lane project. This bridge is one of the three bridges.

DATE: June 5, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 13, 1995

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

Technical Advisory Committee (TAC) , consisting of members from the cities of Sunnyvale and Santa Clara, Caltrans and the Roads and Airports Department of the County of Santa Clara has been formed for this HOV lane project. This TAC committee meets monthly to oversee the HOV lane project in an advisory role.

STEPS FOLLOWING APPROVAL:

The Clerk of the Board of Supervisors shall take the following actions:

1. Publish the advertisement of the project upon approval by Caltrans of the Right of Way certification.
2. Forward a copy of the approved transmittal and proof of publication to Gamini Rajapakse Project Manager at Roads & Airports Department, 3333 North First Street, Building A, San Jose, CA 95134.
3. Set the bid opening date for Thursday, July 27, 1995.

Attachments

cc: B. Mesusan, J. Lee, Fiscal Resources
A. Hodson, Bob Wu(Caltrans, Oakland Office)
J.R. Randall/ Gamini Rajapakse, Project Manager
M. Griffis, Program Manager
Lawrence Expressway file
Records Management

COUNTY OF SANTA CLARA

ROADS AND AIRPORTS DEPARTMENT

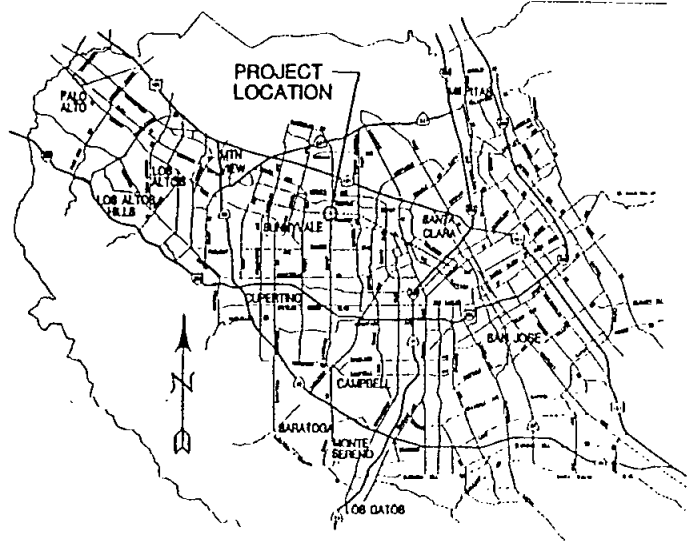
PLANS FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR) OVERHEAD

AT LAWRENCE EXPRESSWAY

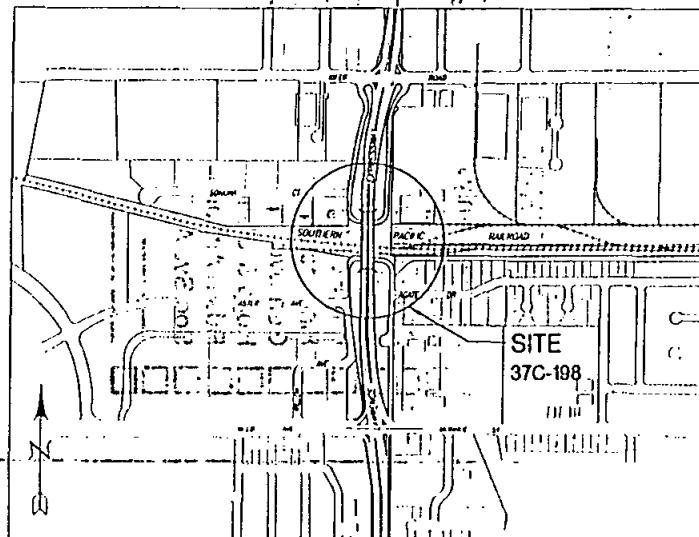
(BRIDGE NO. 37C-198)

TO BE SUPPLEMENTED BY STATE STANDARD PLANS DATED JULY 1992

FEDERAL PROJECT NO: DPC-0040(001) DEMONSTRATION HOV LANE PROJECT
STPLNZ-5937(019) SEISMIC RETROFIT PROJECT



LOCATION MAP
1" = 2.5 Miles



SITE PLAN
1" = 500'

INDEX OF SHEETS

1. TITLE SHEET
2. AERIAL PLAN & R/W
3. GENERAL PLAN
4. CONSTRUCTION STAGING PLAN NO. 1
5. CONSTRUCTION STAGING PLAN NO. 2
6. TRAFFIC PLAN
7. FOUNDATION PLAN
8. ABUTMENT DETAILS NO. 1
9. ABUTMENT DETAILS NO. 2
10. ABUTMENT RETROFIT - 60' C.I.D.H.
11. BENT DETAILS
12. BENT RETROFIT DETAILS
13. BENT FOOTING RETROFIT - THRUST
14. STEEL GIRDER DETAILS NO. 1
15. STEEL GIRDER DETAILS NO. 2
16. DECK REINFORCEMENT
17. SLOPE PAVING PLAN & DETAILS
18. EXCAVATION SHORING DETAILS
19. ELECTRICAL DETAILS
20. LOG OF TEST BORINGS NO. 1
21. LOG OF TEST BORINGS NO. 2

Note:
The Contractor shall possess the Class (or Classes) of license(s) as
in the Special Provisions of the law this contract is awarded



SANTA CLARA COUNTY DEPARTMENT OF ROADS AND AIRPORTS

G.R. MAY 1995
H.K. MAY 1995
J.A.F. MAY 1995



SEISMIC RETROFIT AND WIDENING
SUNNYVALE (SPRR) O.H./LAWRENCE E

TITLE SHEET

DOCUMENT DISTRIBUTION

6-13-95

Meeting Date

85

Item Number

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- ☐ Contractor
- ☐ Muni Code
- ☐ Newspaper:
- ☐ _____
- ☐ _____

- Pony ☐
- Mail ☐
- Fax ☐
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Admin. & Capital Programs

Ernie Jones

Processed By

6-22-95

Date

COUNTY OF SANTA CLARA
CALIFORNIA

OFFICE OF THE BOARD OF SUPERVISORS
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-4321

MEMBERS OF THE BOARD
Michael M. Honda, District 1
Blanca Alvarado, District 2
Ron Gonzales, District 3
James T. Beall, District 4
Dianne McKenna, District 5

June 19, 1995

Santa Clara Valley Weekly
P. O. Box 755
Santa Clara, CA 95052

Attention: Kenda - Legal Department

Dear Santa Clara Valley Weekly:


SUBJECT: PUBLICATION OF ENCLOSED NOTICE TO BIDDERS
REPRINTS: NONE

Please publish the enclosed Notice to Bidders twice - once on Wednesday,
June 28 and again on Wednesday, July 5, 1995.

The enclosed relates to construction for Seismic Retrofit and Widening of
Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge No. 37C-198).

Please send THREE copies of the Bill and Two Affidavits of Publication to this
office, attention Sue Griffiths, immediately following publication.

Very truly yours,


Erlene Jones
Deputy Clerk

Enclosure
cc: Sue Griffiths
GSA Capital Programs

RETURN CONFIRMATION REQUIRED (Fax #298-8460)

BY: _____

DATE: _____

BOARD OF SUPERVISORS
COUNTY OF SANTA CLARA

NOTICE TO BIDDERS

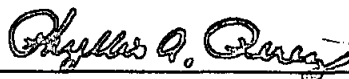
NOTICE IS HEREBY GIVEN that the County of Santa Clara will receive sealed bids until 2:00 p.m., Thursday, July 27, 1995, in the Office of the Clerk of the Board of Supervisors, County Administration Building, 70 West Hedding Street, 10th Floor, San Jose, CA 95110 for construction of Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge No. 37C-198).

Instructions to bidders and contract documents, including drawings and technical specifications, may be obtained or examined at 3331 N. First Street, Building B, 2nd. Floor, San Jose, CA 95134-1906, (408) 321-5730.

Inquiries concerning this bid shall be directed to Gamini Rajapakse, Project Manager, at (408) 321-7144.

By order of the Board of Supervisors of the County of Santa Clara, State of California, on June 13, 1995.

BOARD OF SUPERVISORS
PHYLLIS PEREZ, CLERK OF THE BOARD



PP:ej

Not Published

SECTION 100 NOTICE TO BIDDERS

Notice is hereby given that sealed bids will be received by the Clerk of the Board of Supervisors of the County of Santa Clara, State of California in the Office of the Clerk of the Board of Supervisors, County Government Center, 10th Floor, East Wing, 70 West Hedding Street, San Jose, California 95110, up to

2:00 p.m. o'clock Thursday July 27, 1995 for the Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge # 37C-198)

at which time bids will be publicly opened and read at the time and place as stated above, by the Clerk of the Board of Supervisors.

The bridge work to be done consist, in general, Seismic Retrofit improvements and widening of an existing bridge over Peninsula Corridor Joint Powers Board (PC-JPB) & Southern Pacific Transportation Company (SPTC) railroad. The retrofit work consist of constructing reinforced concrete infill in all piers, 60" C.I.D.H piles at the abutments, reinforced concrete thrust walls at the bent footings and retrofitting diaphragms. The widening work consist of driving piles, widen existing bent on pile cap, add two (2) steel plate I-girders with reinforced concrete deck, construct side walks and concrete barriers.

DBE GOAL FOR THIS PROJECT:

The County of Santa Clara has established the following goal for Disadvantaged Business Enterprises (DBE) participation for this project

Disadvantaged Business Enterprises: 17 Percent.

THIS PROJECT IS SUBJECT TO THE "BUY AMERICA" PROVISIONS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.

Wage Rates

Minimum wage rates for this project as predetermined by the Secretary of labor are set forth in the special provisions. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and prevailing wage rates determined by the Department of Industrial Relations for similar classifications of labor, the Contractor and his subcontractors shall pay not less than the higher wage rate.

Pursuant to Section 1773 of the Labor Code, the general prevailing rate of wages in the county in which the work is to be done has been determined by the Director of the Department of Industrial Relations, which rates are filed in the office of the Clerk of the Board of Supervisors, incorporated herein by reference and copies of which are available to any interested parties on request. These wage rates appear in the Department of Transportation publication entitled General Prevailing Wage Rates dated: 09/09/1994.

Future effective wage rates which have been predetermined and are on file with the Department of Industrial Relations are referenced but not printed in said publication.

Project Number

This contract is subject to approval by the Federal Highway Administration (FHWA). The bidders shall show the FHWA/ISTEA project number DPC-0040 (001) and STPLNZ 5937(019) all correspondence.

Substitution of Securities

In accordance with Government code Section 4590, the Contractor may substitute securities for any money withheld under Section 9.07 "Progress Payments" of the county Standard Specifications. At Contractor's request and expense, securities equivalent to the amount withheld shall be deposited with the Owner, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the Contractor. Upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

Time of Completion

The time limit for the completion of work is 220 working days commencing on the 20th day following Notice of Award by the County. The scope of work, completion time, and the amount of liquidated damages for each increment of work are set forth in Special Provisions Section 104.

Plans and Bidding Documents

Project plans and bidding documents may be acquired at Building B, Second Floor, 3331 North First Street, San Jose, California 95134, upon payment of \$ 100.00 per set.

A copy of the Santa Clara County Standard Specifications may be secured in Building B, Second Floor, 3331 North First Street, San Jose, California 95134, upon payment of \$10.00.

Bid Submittal

Executed Payment Bond, Performance Bond, agreement and Certificate of Insurance are required to be filed and approved by the Board of Supervisors prior to the issuance of the Notice to Proceed.

Each bid must be accompanied by cash, a certified or cashier's check, or a bidder's bond in the sum of not less than 10% of the total aggregate of the bid, and the checks or bond shall be made payable to the order of the County of Santa Clara.

All bids shall be submitted in the forms furnished in these Contract Documents.

A report of the names of all bidders and the amounts of each will be made by the Clerk of the Board of Supervisors at a regular meeting of the Board of Supervisors. The date of the regular meeting will be announced at the bid opening.

This contract is subject to approval by the Santa Clara County Board of Supervisors prior to award. The Board of Supervisors of Santa Clara County reserves the right to reject any and all bids or to waive any errors or discrepancies.

Contractor License

At the time this contract is awarded, the contractor shall possess either a Class A License or a combination of the following licenses: Class C-8, C-12, and C-50.

Pre-Bid Opening Conference

A Pre-Bid Opening Conference will be held on July 18, 1995 at 10:00 am

in conference room number B225 of the Santa Clara County offices located at 3331 North First Street, Building B, San Jose, California 95134. Representatives of the County will be present to discuss:

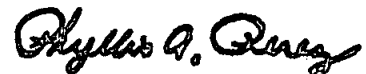
- Requirements regarding the participation of Disadvantaged Business Enterprises.
- Affirmative Action/Equal Employment Opportunity Requirements, and
- Coordination of work to be performed.
- Pertinent contract requirements and bid forms.

This meeting is to inform bidders and potential subcontractors of subcontracting and material supply opportunities. Bidders' attendance at this meeting may be one consideration of the reasonable good-faith efforts, set forth in Section 102-2.01 "Award of Contract", made to obtain Disadvantaged Business Enterprise participation goals.

Bidders should have fully inspected the project site in all particulars and become thoroughly familiar with the terms and conditions of the Contract Documents and local conditions affecting the performance and costs of the work prior to this conference.

Bids are required for the entire work described herein. This contract is subject to state contract nondiscrimination and compliance requirements.

By order of the County of Santa Clara, State of California, on June 13, 1995.



Clerk of the Board of Supervisors

PHYLLIS A. PEREZ

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134

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CO. OF S

THIS RELATES TO:
AGENDA ITEM 101
MEETING OF June 6

ORIGINAL



95 JUN 5 All : 16

#101 of 6-6-95

DATE: June 5, 1995

TO: CLERK OF THE BOARD OF SUPERVISORS

FROM: CHRISTINE FISCHER, DIRECTOR
ROADS & AIRPORTS *CF*

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND
WIDENING OF SUNNYVALE OVERHEAD BRIDGE ON
LAWRENCE EXPRESSWAY

Please reschedule the June 6, 1995 subject Board Transmittal (Item No. 101) to the June 13, 1995 Board of Supervisors meeting.

The advertisement for this project is pending Caltrans approval of the submitted Right of Way Certification.

cc:

B. Mesusan, J. Lee, Fiscal Resources
A. Hodson, Bob Wu, Caltrans
J. Randall, G. Rajapakse, Project Manager
M. Griffis, Program Manager
Lawrence Expressway File
Records Management

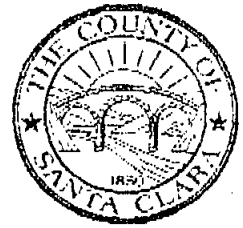
ORIGINAL

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134RCV'D
BD OF SUPERVISORS
CO. OF SANTA CLARA

95 JUN 5 AM 11:16



#101 of 6-6-95

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Lawrence Expressway File
Records Management

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134



RA-7

TRANSMITTAL MEMORANDUM

Page 1 of 3

Prepared by: Gamini Rajapakse
Reviewed by: Jim Randa
Submitted by: Rollo Parsons

S.D. 3

Date: May 22, 1995

COUNTY BOARD OF SUPERVISORS: **Agenda Date:** June 6, 1995 **Item No.** _____

FROM: Christine Fischer, Director
Roads and Airports Department

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

RECOMMENDED ACTION:

Approve and authorize the advertisement of the contract documents for the seismic retrofit and widening of Sunnyvale Overhead Bridge (Br. 37C-198) on Lawrence Expressway at Caltrain Lawrence Station.

FISCAL IMPLICATIONS:

There is no fiscal impact to the County General Fund. Eighty percent (80%) of the total project cost will be reimbursed by Federal/State Demonstration Program Funds with Local Seismic Retrofit Program Funds reimbursing the retrofit work one hundred percent (100%). The remaining twenty percent (20%) of the Demonstration Program funds will be local Road Funds.

Sufficient funds for this project are budgeted in the current budget line items 0023-6435-2900 Commuter Lane Development, and 0023-6435-2910 Bridge Seismic Retrofit Program.

It is against County policy to publish the engineer's estimate prior to the project bid opening.

CONTRACT HISTORY:

The subject contract documents have been reviewed by Caltrans, Southern Pacific Transportation Company (SPTC), the cities of Santa Clara and Sunnyvale, and the Peninsula Corridor Joint Powers Board

ORIGINAL

JUN 6 1995

DATE: May 22, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 6, 1995

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

(PC-JPB) during the design stage. Caltrans has reviewed the final contract documents and granted authorization to advertise with award pending Caltrans approval of Right of Way Certification. This early action is being taken to keep this project on schedule during the period of time allocated for the Board of Supervisor's June 1995 budget sessions.

The Lawrence Expressway HOV lane project has been environmentally cleared by an Environmental Assessment with a finding of no significant impact under the National Environmental Policy Act (NEPA) and an initial study with a negative declaration under the California Environmental Quality Act (CEQA).

The Disadvantaged Business Enterprise (DBE) goal is 17%.

REASONS FOR RECOMMENDATION:

Approval of these contract documents and authorization to advertise the project will allow competitive bids to be submitted for award of the construction contract. This is the last major bridge construction contract for completion of the Lawrence Expressway HOV lane project.

Construction of the improvements as specified in the contract documents will widen and upgrade the bridge over PC-JPB Caltrain mainline tracts and SPTC spur line tracks to the current seismic design criteria and provide for additional traffic lanes for use by the high occupancy vehicles (HOV) on Lawrence Expressway.

BACKGROUND:

The Lawrence Expressway HOV Lane Program includes the construction of two additional lanes on Lawrence Expressway between State Route 237 in the north and Mitty Way in the south. To accommodate the HOV lanes the bridge structure at the subject location is required to be widened. Seismic retrofitting is part of the project.

In 1991 the Lawrence Expressway HOV Project was appropriated 10.1 million in Federal Highway Administration (FHWA), Intermodal Surface Transportation Efficiency Act (ISTEA) funds. Local matching funds are shared by the cities of Sunnyvale and Santa Clara and the County. On April 29, 1994 the State provided notice that \$1,616,000 additional funds had been allocated for seismic retrofit of the three bridges to be widened for this HOV lane project. This bridge is one of the three bridges.

DATE: May 22, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 6, 1995

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

Technical Advisory Committee (TAC) , consisting of members from the cities of Sunnyvale and Santa Clara, Caltrans and the Roads and Airports Department of the County of Santa Clara has been formed for this HOV lane project. This TAC committee meets monthly to oversee the HOV lane project in an advisory role.

STEPS FOLLOWING APPROVAL:

The Clerk of the Board of Supervisors shall take the following actions:

1. Publish the advertisement of the project in the local newspaper . Publication must occur by June 13, 1995.
2. Forward a copy of the approved transmittal and proof of publication to Gamini Rajapakse Project Manager at Roads & Airports Department, 3333 North First Street, Building A, San Jose, CA 95134.
3. Set the bid opening date for Thursday, July 27, 1995.

Attachments

cc: B. Mesusan, J. Lee, Fiscal Resources
A. Hodson, Bob Wu(Caltrans, Oakland Office)
J.R. Randall/ Gamini Rajapakse, Project Manager
M. Griffis, Program Manager
Lawrence Expressway file
Records Management

COUNTY OF SANTA CLARA

ROADS AND AIRPORTS DEPARTMENT

PLANS FOR

SEISMIC RETROFIT AND WIDENING OF

SUNNYVALE (SPRR) OVERHEAD

AT LAWRENCE EXPRESSWAY

(BRIDGE NO. 37C-198)

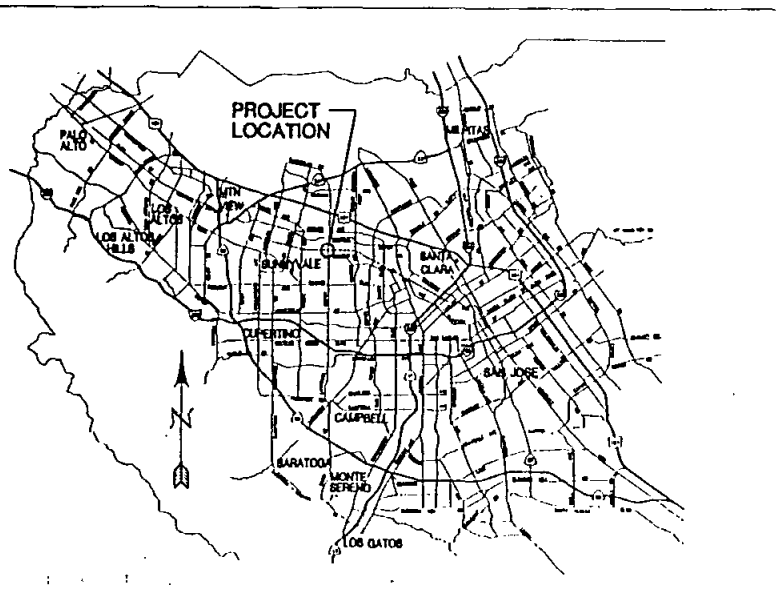
TO BE SUPPLEMENTED BY STATE STANDARD PLANS DATED JULY 1992

FEDERAL PROJECT NO: DPC-0040(001) DEMONSTRATION HOV LANE PROJECT
STPLNZ-5937(019) SEISMIC RETROFIT PROJECT

INDEX OF SHEETS

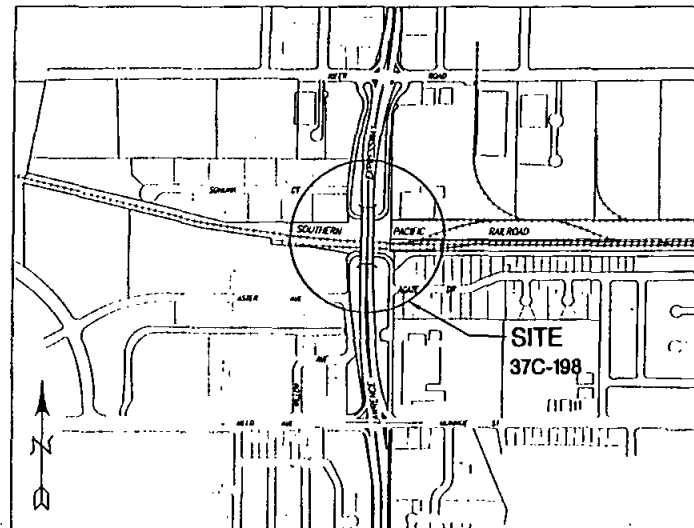
1. TITLE SHEET
2. AERIAL PLAN & R/W
3. GENERAL PLAN
4. CONSTRUCTION STAGING PLAN NO. 1
5. CONSTRUCTION STAGING PLAN NO. 2
6. TRAFFIC PLAN
7. FOUNDATION PLAN
8. ABUTMENT DETAILS NO. 1
9. ABUTMENT DETAILS NO. 2
10. ABUTMENT RETROFIT - 60' C.I.D.H.
11. BENT DETAILS
12. BENT RETROFIT DETAILS
13. BENT FOOTING RETROFIT - THRUST WALL
14. STEEL GIRDER DETAILS NO. 1
15. STEEL GIRDER DETAILS NO. 2
16. DECK REINFORCEMENT
17. SLOPE PAVING PLAN & DETAILS
18. EXCAVATION SHORING DETAILS
19. ELECTRICAL DETAILS
20. LOG OF TEST BORINGS NO. 1
21. LOG OF TEST BORINGS NO. 2

Note:
The Contractor shall possess the Class (or Classes) of license(s) as specified in the Special Provisions of the form this contract is awarded.



LOCATION MAP

1" = 2.5 Miles



SITE PLAN

1" = 500'



SANTA CLARA COUNTY DEPARTMENT OF ROADS AND AIRPORTS

C.R. MAY 1995 C1475, C1476
H.K. MAY 1995
J.A.F. MAY 1995



SEISMIC RETROFIT AND WIDENING
SUNNYVALE (SPRR) O.H./LAWRENCE EXPW

TITLE SHEET

100%

SECTION 100 NOTICE TO BIDDERS

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2:00 p.m. o'clock Thursday July 27, 1995 for the Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge # 37C-198)

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ORIGINAL

JUN 6 1995

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Pre-Bid Opening Conference

A Pre-Bid Opening Conference will be held on July 18, 1995 at 10:00 am

in conference room number B225 of the Santa Clara County offices located at 3331 North First Street, Building B, San Jose, California 95134. Representatives of the County will be present to discuss:

- Requirements regarding the participation of Disadvantaged Business Enterprises.
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Bidders should have fully inspected the project site in all particulars and become thoroughly familiar with the terms and conditions of the Contract Documents and local conditions affecting the performance and costs of the work prior to this conference.

Bids are required for the entire work described herein. This contract is subject to state contract nondiscrimination and compliance requirements.

By order of the County of Santa Clara, State of California, on June 06, 1995.

Clerk of the Board of Supervisors
PHYLLIS A. PEREZ

98 FEB 27 PM 2:43

To	Initial Date	To	Initial Date
DIRECTOR		DESIGN/CONST. OPS.	
Administration		Bridge Design	
Fiscal Services		Construction Ops.	
Envir. Health/Safety		Environmental	
Equal Opportunity/DBE		Highway Design	
Information Systems		Land Dev./Permits	
Personnel Services		Property	
ROADS/FLEET OPS.		Survey/Records	
Administration		TRAFFIC/ELEC. OPS.	
Engineering		Design	
Maintenance		Operations	
East Yard		AIRPORTS	
South Yard		Palo Alto	
West Yard		Reid Hillview	
Fleet Operations/Maint.		South County	

INTERDEPARTMENTAL:

CR of the Board

<input type="checkbox"/> Prepare Response for My Signature	<input type="checkbox"/> Recommend/Comment
<input type="checkbox"/> Reply Direct with Copy to Me	<input type="checkbox"/> Please See Me
<input type="checkbox"/> For Your Approval/Signature	<input type="checkbox"/> Please Handle
<input type="checkbox"/> For Your Information	<input type="checkbox"/> Please Call Me

COMMENTS:

ROADS & AIRPORTS ADMIN

FROM

Districts

I **II** **III** **IV** **V**

2/26
Date'd

Ernie 95-22
One of our
projects ? If
yes, pls put this
w/ file. If no, &
ask Andrea
X it.
Choko
@D

FOR YOUR INFORMATION

file 95-22

THERE WILL BE NIGHTTIME WORK UNDER LAWRENCE EXPRESSWAY NEAR THE CALTRAIN STATION

file

WHO WILL DO THE WORK: GRANITE CONSTRUCTION

WHAT THEY WILL BE DOING: 1. WORK DIRECTLY ON THE SIDE OF THE BRIDGE WHICH WILL INVOLVE NOISE GENERATING EQUIPMENT.

2. PILE DRIVING UNDER THE BRIDGE NEAR THE RAILROAD TRACKS.

WHEN THE WORK WILL BE DONE: 1. WORK ON THE SIDE OF THE BRIDGE COULD TAKE AS MUCH AS TEN NIGHTS (10:00pm - 5:00am) FROM MONDAY FEBRUARY 26TH TO FRIDAY, MARCH 1, AND MONDAY, MARCH 4TH TO FRIDAY MARCH 8, 1996.

Notice to residents being sent out. Please cc to Board of Supervisors

2. THE PILE DRIVING WILL TAKE TWO NIGHTS - WEDNESDAY, FEBRUARY 28 AND THURSDAY, FEBRUARY 29, 1996

(PLEASE NOTE THE DATES AND TIMES INDICATED ABOVE ARE APPROXIMATES ONLY)

WHY THE WORK WILL BE DONE AT NIGHT:

- THE LAWRENCE EXPRESSWAY IMPROVEMENT PROJECT INVOLVES BRIDGE WORK WHICH INCLUDES THE WIDENING OF SEVERAL BRIDGES AND THE UPGRADING OF SEVERAL BRIDGE COLUMNS.
- THE JOINT POWERS BOARD (JPB) THAT OWNS AND GOVERNS THE AREA AROUND THE CALTRAIN RAILROAD TRACKS WILL NOT ALLOW THE FINAL COLUMN FOR THE LAWRENCE EXPRESSWAY/CALTRAIN BRIDGE TO BE CONSTRUCTED DURING THE HOURS THAT THE TRAIN IS RUNNING DUE TO SAFETY CONCERNS.
- AS A RESULT OF THE JPB'S DECISION THE FINAL COLUMN AT THE CALTRAIN STATION AND ACCOMPANYING BRIDGE WORK WILL HAVE TO BE DONE AT NIGHT WHEN THE TRAINS ARE NOT RUNNING.

WE ARE VERY SORRY FOR THIS INCONVENIENCE!

IF YOU HAVE ANY QUESTIONS REGARDING THE NIGHTTIME WORK PLEASE CALL: STEVE DATSFORD AT GRANITE CONSTRUCTION AT (408) 737-7022 OR ROY HAAS, THE PROJECT INSPECTOR AT (408) 737-7208 OR THE LAWRENCE EXPRESSWAY HOT LINE NUMBER AT (408) 321-7155

DATE: February 23, 1996

TO: Christine L. Fischer
Rollo Parsons
Alan Jones
Bill Baxter

FROM: Nan A. Vaughan

SUBJECT: Useful item "picked up" at CTC meeting in San Francisco held on 2/21/ and 2/22/96

cc to all supervisors on the Board

Tie transportation projects/requests to the economy:

- CTC is composed of businessmen and developers
- this may be something we may want to push for a requirement in the reauthorizing of ISTEA
- this is something we may want to look at more closely when developing a new scoring form for ISTEA projects

Governor Wilson's Commission on Transportation Investment (CTI)

- emphasizes the need to be respectful of local and regional role in planning - should be included in the new STIP process

Funds for Certification of CEQA and NEPA should be in the new ISTEA

AB 2084 is a new state bill that proposes that transportation funds can be turned over to other kinds of projects - like they did in L.A. and Orange County. This is a very dangerous Bill and we should oppose.

Shelf ready projects are needed - perhaps this should also be included in the next ISTEA.

Caltrans might have \$54M left over from their ROW account. Caltrans is proposing that the funds be used to back fill projects that are already in the STIP. Legislators may push their own projects and regional agencies may come forth with their own lists. This money should be watched - maybe we can think of a way to access it.

After watching one commissioner push his own agenda forward and get funds for his favorite projects, it made me wish we had a person to champion for us on the CTC.

AGREEMENT

THIS IS AN AGREEMENT between the County of Santa Clara (hereinafter referred to as "Owner") and
GRANITE CONSTRUCTION COMPANY (hereafter referred to as "Contractor").

Owner and Contractor for the consideration hereinafter named agree as follows:

ARTICLE 1 - SCOPE OF WORK

Contractor shall furnish all materials and perform all of the work for construction of
BRIDGE
SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD/AT LAWRENCE EXPRESSWAY
CONTRACT NO. 95-22 in accordance with the Contract Documents.

ARTICLE 2 - CONTRACT PRICE

As full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement, also for all loss or damage, arising out of the nature of the work aforesaid, or from the actions of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by Owner, and for all risks of every description connected with the work, also for all expenses incurred by or in consequence of the suspension or discontinuance of work thereof, in the manner and according to the Contract Documents, Owner shall pay the amount specified by Contractor in Contractor's Bid Form.

ARTICLE 3 - CONTRACT DOCUMENTS

All rights and obligations of Owner and Contractor are fully set forth and described in the Contract Documents. All parts of the Contract Documents are intended to be correlated so that any work called for in one part and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The Contract Documents are incorporated herein by reference the same as though set out in full.

ARTICLE 4 - BEGINNING OF WORK

Following the execution of this agreement and the approval of bonds and insurance policies and certificates, Owner shall issue a Notice to Proceed with the work.

ARTICLE 5 - PREVAILING WAGES

The statement of prevailing wages appearing in the Equipment Rental Rates and General Prevailing Wage Rates is hereby specifically referred to and by this reference is made a part of this contract. A copy of the Prevailing Wage Rate dated _____ is on file with the Clerk of the Board of Supervisors. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of said terms of said proposal conflicting herewith.

ARTICLE 6 - WORKER'S COMPENSATION

By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE 7 - AUTHORITY OF STATE OF CALIFORNIA

The improvements contemplated in the performance of this contract is an improvement over which the State of California shall exercise general supervision. The State of California, therefore, shall have the right to assume full and direct control over this contract whenever the State of California, at its sole discretion, shall determine that its responsibility to the United States so required.

ARTICLE 8 - TIME OF COMPLETION

The first day charged shall be the 20th day following the date of the Notice of Award, and all work shall be fully completed within the time limit set forth in the Notice to Bidders.

ARTICLE 9 - CONTRACTOR'S LICENSE

Contractors are required by law to be licensed in the State of California and regulated by the Contractor's State License Board. Any questions concerning a contractor may be referred to the registrar of the Board whose address is: Contractors' State License Board, 1020 N Street Sacramento, CA 95814.

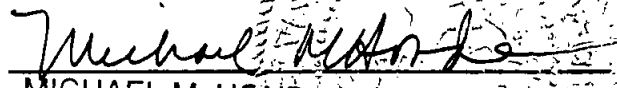
IN WITNESS WHEREOF,

the parties hereto have executed this agreement as of the 19th day of SEPTEMBER, 1995.

COUNTY OF SANTA CLARA

ATTEST:


PHYLLIS A. PEREZ
Clerk of the Board of Supervisors


MICHAEL M. HONDA
Chairperson of the Board of Supervisors

CONTRACTOR

Contractor: GRANITE CONSTRUCTION COMPANY

By: 
R. C. Allbritton

Title: PRESIDENT Vice President

Address: P. O. Box 50085

WATSONVILLE, CA 95077-5085

Contractor's License Number: 89

(Acknowledgment for Contractor's Signature)

STATE OF CALIFORNIA

COUNTY OF Santa Cruz

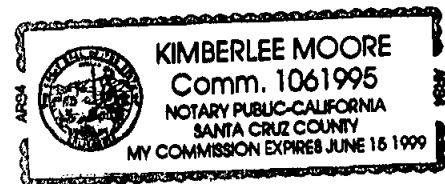
On October 6, 1995, before me, the undersigned notary public,

personally appeared R. C. Allbritton,

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that 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 of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Kimberlee Moore
Signature of Notary



Best A++14

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the Board of Supervisors of the County of Santa Clara, State of California, has awarded

to: GRANITE CONSTRUCTION COMPANY (hereinafter designated as "Principal")
SEISMIC RETROFIT AND WIDENING OF SUNNYVALE OVERHEAD BRIDGE
a contract for AT LAWRENCE EXPRESSWAY - CONTRACT NO. 95- 22; and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract,

NOW, THEREFORE, we, the Principal and FEDERAL INSURANCE COMPANY
as Surety, are held and firmly bound unto the County of Santa Clara (herein-after called "County"), in the
(\$2,090,443.45) DOLLARS AND FORTY-FIV
penal sum of TWO MILLION, NINETY THOUSAND, FOUR HUNDRED FORTY-THREE lawful money of the CENT
United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs,
executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bound Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract, which Contract is incorporated and made a part hereof by this reference, and any alteration thereof made and in the manner therein specified, and in all respects according to their officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

And, the said Surety for value received, hereby stipulates and agrees that no change, extension of time, alternation or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the contract or to the work or to the specifications.

In the event suit is brought upon this bond by the County and judgment is recovered, Surety shall pay all costs incurred by the County in such suit, including a reasonable attorney's fee to be fixed by the Court.

PERFORMANCE BOND

IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by Principal and Surety above named, on the 19th day of SEPTEMBER, 1995.

GRANITE CONSTRUCTION COMPANY (Seal)

BY: [Signature] (Seal)

R. C. Allbritton

Vice President (Seal)

Principal

FEDERAL INSURANCE COMPANY (Seal)

BY: [Signature] (Seal)

Kathleen Kenan

Attorney-in-Fact (Seal)

Surety

15 Mt. View Road

Warren, NJ 07059

Address

NOTE: Signature of those executing for Surety requires a notarized acknowledgment.

RECEIVED
BD OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 11 P 3:09

STATE OF CALIFORNIA

COUNTY OF Santa Cruz

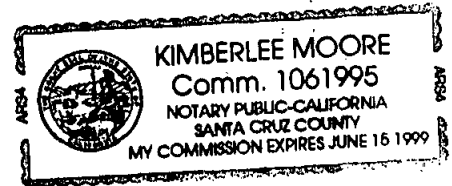
On October 6,, 1995, before me, the undersigned notary public,

personally appeared Kathleen Kenan,

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that 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 of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Kimberlee Moore
Signature of Notary



Best A++14

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the Board of Supervisors of the County of Santa Clara, State of California,

and GRANITE CONSTRUCTION COMPANY (hereinafter designated as "Principal")

have entered into an agreement for the furnishing of all materials, labor, services and transportation,

necessary, convenient and proper to construct: SEISMIC RETROFIT AND WIDENING OF

SUNNYVALE OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY - CONTRACT NO. 95- 22

which said Agreement dated SEPTEMBER 19, 19 95 and all of the Contract Documents attached to or forming a part of said Agreement, are hereby referred to and made part hereof, and

WHEREAS, said Principal is required by Chapter 5 (Commencing at Section 3224) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

NOW THEREFORE, we, the Principal and Federal Insurance Companies Surety, are held and Firmly bound unto the Public Entity in the penal sum of: TWO MILLION, NINETY THOUSAND, FOUR HUNDRED

FORTY-THREE DOLLARS AND FORTY-FIVE CENTS (\$2,090,443.45), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, the Surety will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, or to any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described or pertaining to or relating to the furnishing of labor, materials, or equipment thereof, nor by any change or modification of any terms of payments or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such

RCVD
ED OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 11 P3:09

PAYMENT BOND

bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or Public Entity and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named on the 19th day of SEPTEMBER, 19 95.

GRANITE CONSTRUCTION COMPANY (Seal)

BY: [Signature] (Seal)

R. C. Allbritton

Vice President (Seal)

Principal

FEDERAL INSURANCE COMPANY (Seal)

BY: [Signature] (Seal)

Kathleen Kenan

Attorney-in-Fact (Seal)

Surety

15 Mt. View Road

Warren, NJ 07059

Address

NOTE: Signature of those executing for Surety requires a notarized acknowledgment.

BOARD
LD OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 11 P3:09

STATE OF CALIFORNIA

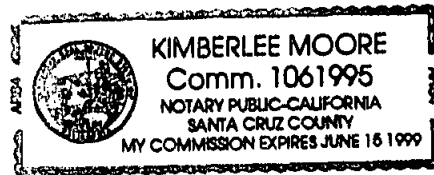
COUNTY OF Santa Cruz

On October 6,, 1995, before me, the undersigned notary public,

personally appeared Kathleen Kenan,

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that 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 of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Kimberlee Moore
Signature of Notary

ACORD**CERTIFICATE OF INSURANCE**

ISSUE DATE (MM/DD/YY)

10/6/95

PRODUCER

CO. OF SUPERVISORS
CO. OF SANTA CLARATHIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND
CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE
DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE
POLICIES BELOW.

McSHERRY & HUDSON

P.O. BOX 2690

WATSONVILLE, CA 95077-2690 P4: 04

(408) 724-3841

COMPANIES AFFORDING COVERAGECOMPANY
LETTER

A AMERICAN CASUALTY COMPANY OF READING, PA

COMPANY
LETTER

B CONTINENTAL CASUALTY COMPANY

COMPANY
LETTER

C

COMPANY
LETTER

D

COMPANY
LETTER

E

INSURED

GRANITE CONSTRUCTION COMPANY

P. O. BOX 50085

WATSONVILLE, CA 95077-5085

COVERAGESTHIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME
INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT.
THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN
EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input checked="" type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input checked="" type="checkbox"/> Personal Injury Included <input checked="" type="checkbox"/> X-C & U-Hazards Included <input checked="" type="checkbox"/> Broad Form Property Damage	GL 20 251 9639	10/1/94	10/1/97	GENERAL AGGREGATE \$10,000,000 PRODUCTS/COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$2,000,000 MED. EXPENSE (Any one person) \$NIL
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY	BUA 80 251 9636	10/1/94	10/1/97	COMBINED SINGLE LIMIT \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
B	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY	WC 002525409	7/1/95	7/1/96	STATUTORY LIMITS EACH ACCIDENT \$2,000,000 DISEASE-POLICY LIMIT \$2,000,000 DISEASE-EACH EMPLOYEE \$2,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

JOB NO. 219191

SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR) OVERHEAD BRIDGE

AT LAWRENCE EXPRESSWAY, CONTRACT NO. 95-22

CERTIFICATE HOLDER

SANTA CLARA COUNTY

ERLINE JONES, DEPUTY CLERK

CLERK OF BOARD OF SUPERVISORS

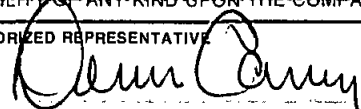
70 W. HEDDING STREET, 10th Floor

SAN JOSE, CA 95110

ACORD 25-S (7/90)

CANCELLATIONSHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE
EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO
MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE
LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR
LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.


AUTHORIZED REPRESENTATIVE



McSHERRY & HUDSON

©ACORD CORPORATION 1990

The original of
this certificate
was mailed to
the County





For All the Commitments You Make®

ADDITIONAL INSURED

RECEIVED
BD OF SUPERVISORS
CO. OF SANTA CLARA

NAME OF PERSON OR ORGANIZATION INSURED

COUNTY OF SANTA CLARA, AND MEMBERS OF THE BOARD OF SUPERVISORS OF THE COUNTY OF : 05

SANTA CLARA, AND THE OFFICERS AGENTS, AND EMPLOYEES OF THE COUNTY OF SANTA CLARA
INDIVIDUALLY AND COLLECTIVELY

COVERED OPERATION

JOB NO. 219191 - SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR) OVERHEAD BRIDGE

AT LAWRENCE EXPRESSWAY, CONTRACT NO.95-22

THE "PERSON INSURED" PROVISION IS AMENDED TO INCLUDE AS AN INSURED THE PERSON OR ORGANIZATION NAMED ABOVE (HEREINAFTER CALLED "ADDITIONAL INSURED"), BUT ONLY WITH RESPECT TO LIABILITY ARISING OUT OF OPERATIONS PERFORMED FOR THE ADDITIONAL INSURED BY THE NAMED INSURED AND SUBJECT TO COVERAGE AFFORDED BY THE I.S.O. STANDARD LIABILITY INSURANCE FORM #CG0001 (11/85).

IT IS AGREED THIS INSURANCE SHALL OPERATE AS PRIMARY INSURANCE AND NO OTHER INSURANCE SHALL BE CALLED ON TO CONTRIBUTE TO A LOSS HEREUNDER.

IT IS FURTHER AGREED THAT THE INSURANCE AFFORDED BY THIS POLICY APPLIES SEVERALLY AS TO EACH INSURED EXCEPT THAT THE INCLUSION OF MORE THAN ONE INSURED SHALL NOT OPERATE TO INCREASE THE LIMIT OF THE COMPANY'S LIABILITY AND THE INCLUSION HEREUNDER OF ANY PERSON OR ORGANIZATION AS AN INSURED SHALL NOT AFFECT ANY RIGHT WHICH SUCH PERSON OR ORGANIZATION WOULD HAVE AS A CLAIMANT IF NOT SO INCLUDED.

This endorsement is a part of your policy and takes effect on the effective date of your policy, unless another effective date is shown below.

Must Be Completed	
ENDT. NO.	POLICY NO.
CH1059	GL 20 251 9639

Complete Only When This Endorsement Is Not Prepared with the Policy - Or Is Not to be Effective with the Policy	
ISSUED TO	EFFECTIVE DATE OF THIS ENDORSEMENT
GRANITE CONSTRUCTION COMPANY	10/6/95 bg

- ☐ Continental Casualty Company
☐ Transportation Insurance Company

- ☒ American Casualty Company of Reading, Pa.
☐ Valley Forge Insurance Company
☐

- ☐ National Fire Insurance Company of Hartford
☐ Transcontinental Insurance Company

McSHERRY & HUDSON

Countersigned by

Authorized Representative

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT — CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

AT AUDIT

The additional premium for this endorsement shall be TBD % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

Job Description

COUNTY OF SANTA CLARA, AND MEMBERS OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA, AND THE OFFICERS, AGENTS AND EMPLOYEES OF THE COUNTY OF SANTA CLARA, INDIVIDUALLY AND COLLECTIVELY.

Job No. 219191 - SEISMIC RETORFIT AND WIDENING OF SUNNYVALE (SPRR) OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY, CONTRACT #95-22

Notes:

1. This endorsement may be used to waive the company's right of subrogation against named third parties who may be responsible for an injury.
2. The sentence in () is optional with the company. It limits the endorsement to apply only to specific jobs of the insured, and only to the extent that the insured is required to obtain this waiver.
3. The premium charge shall be no less than 5% of the California workers' compensation premium otherwise due.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 10/6/95 Policy No.: WC 002525409 Endorsement No.: 1059A

Insured: GRANITE CONSTRUCTION COMPANY Insurance Company: CONTINENTAL CASUALTY COMPANY

Countersigned By: Dennis M. Carney
Dennis M. Carney - McSHERRY & HUDSON

ROUTED
ED OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 10 P4:05

RECEIVED
OCT 10 1995



CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

9/29/95

BROKER

WILLIS CORROON CORP. OF CALIFORNIA
50 California Street
San Francisco, CA 94111

Tel: (415) 981-0600

CONTACT:

INSURED

GRANITE CONSTRUCTION COMPANY
PO Box 50085
Watsonville, CA 95077-5085

Attn: Ms. Carolyn Bell

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER	A	Federal Insurance Company (CHUBB Group)
COMPANY LETTER	B	
COMPANY LETTER	C	
COMPANY LETTER	D	
COMPANY LETTER	E	

COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTORS PROT.				GENERAL AGGREGATE \$ PRODUCTS-COMP/OP AGG. \$ PERSONAL & ADV. INJURY \$ EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
	WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$ DISEASE-POLICY LIMIT \$ DISEASE-EACH EMPLOYEE \$
A	Blanket Builders Risk	6595004	5/1/95	5/1/96	\$3,000,000 "All Risks" coverage including Earthquake and Flood*

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

*Subject to the terms, conditions and exclusions of the policy. The Certificate Holder is an Additional Insured solely as respects Lawrence Expressway Widening, San Jose/Santa Clara County.
19-185

CERTIFICATE HOLDER

COUNTY OF SANTA CLARA
Attn: Myrna Baria
70 West Hedding Street
San Jose, CA 95110

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

COUNTY OF SANTA CLARA
CALIFORNIA

OFFICE OF THE BOARD OF SUPERVISORS
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-4321

MEMBERS OF THE BOARD
Michael M. Honda, District 1
Blanca Alvarado, District 2
Ron Gonzales, District 3
James T. Beall, District 4
Dianne McKenna, District 5

November 16, 1995

D. H. WATTS, PRESIDENT
GRANITE CONSTRUCTION COMPANY
P. O. BOX 50085
WATSONVILLE, CA 95077-5085

Dear Mr. Watts:

SUBJECT: AGREEMENT FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR)
OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY, CONTRACT NO. 95-22

Please be advised that the preliminary requirements necessary to proceed with the above-captioned Board of Supervisors project are in full compliance with the contract specifications and documents effective as of October 20, 1995. It should be noted that this letter does not constitute an authorization to proceed, such notice being issued by the ROADS AND AIRPORTS DEPARTMENT.

A fully executed copy of the Agreement relating to this project is enclosed for your records.

Very truly yours,


Erline Jones
Deputy Clerk

 Enclosure

cc: ROADS AND AIRPORTS DEPARTMENT
STEVE BURTON 321-5892

BOARD AWARDED CONSTRUCTION CONTRACTS
INSURANCE INFORMATION

1. CONTRACT NUMBER: 95-22
2. CONTRACTOR: GRANITE CONSTRUCTION COMPANY
3. PROJECT NAME: SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR)
OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY
4. DEPARTMENT: ROADS AND AIRPORTS DEPARTMENT
CONTACT & PHONE: STEVE BURTON 321-5892
5. COMPLIANCE: YES MAINT. PERIOD: _____ MAINT. TYPE: _____
6. EFFECTIVE DATE EST COMPL DATE ACCEPT DATE
October 20, 1995 220 WORKING DAYS _____
7. INSURANCE AGENT: McSHERRY & HUDSON
ADDRESS: P. O. BOX 2690
WATSONVILLE, CA 95077-2690

INSURANCE CO.: A. AMERICAN CASUALTY CO. OF READING, PA

8. COVERAGE

	POLICY NO.	COVERAGE	EXPIRATION DATE
A.	GL202519639	GENERAL LIABILITY	10/01/97
B.	BUA802519636	AUTOMOBILE LIABILITY	10/01/97
C.	WC002525409	WORKERS COMPENSATION	07/01/96
D.			

9. SURETY: FEDERAL INSURANCE COMPANY

BOND NO.	COVERAGE	EXPIRATION DATE
8144-80-17	PAYMENT BOND FOR PUBLIC WORKS PERFORMANCE BOND	220 WORKING DAYS Notice of Completion

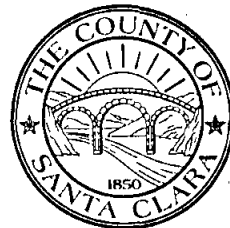
County of Santa Clara

Employee Services Agency
Risk Management Insurance/Claims Divisions

County Government Center, East Wing
70 West Hedding Street, 9th Floor
San Jose, California 95110
(408) 299-3192 FAX 286-8528

RCVD
BD OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 27 P2:16



October 25, 1995

Mr. Rod Cooper, Branch Manager
Granite Construction Company
120 Granite Rock Way
San Jose, CA 95136

Re: Contract No. 95-22 Seismic Retrofit of Sunnyvale Bridge
Contractor's Equipment Insurance

Dear Mr. Cooper:

The County has received your request for waiver of contractor's equipment insurance on the above referenced contract. The requirement for this coverage on this contract is hereby waived.

Sincerely,

Don Blackhurst

Don Blackhurst
Insurance Risk Manager

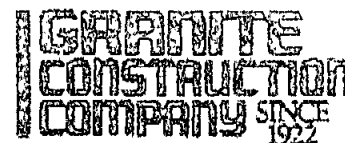
Erline -

FYB

Don.

10-25

ls/GranRock1095



October 18, 1995

County of Santa Clara
Don Blackhurst
Insurance Manager
70 West Hedding Street
San Jose, CA 95110

RE: SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR)
OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY
CONTRACT NO. 95-22

Don Blackhurst,
Granite Construction Company respectfully requests that the
COUNTY OF SANTA CLARA EQUIPMENT INSURANCE requirement be waived.

Granite Construction Company hereby releases and holds harmless
County of Santa Clara for any loss or damages to its
equipment.

Y,

GRANITE CONSTRUCTION COMPANY

Manager

CC: B. [unclear]

San Jose Branch
120 Granite Rock Way
San Jose, CA 95136
(408) 224-4124
FAX (408) 224-4394

FROM
DD OF SUPERVISORS
CO. OF SANTA CLARA

95 OCT 19 A9:42

ATTACHMENT F

CONTRACT INFORMATION SHEET

1. NAME OF CONTRACTOR: Lionsgate Corporation
2. ADDRESS OF CONTRACTOR: P.O.Box, 408, Alamo, CA 94507
3. CATEGORY OF SERVICE: Construction
(See Reverse)
4. IDENTIFY SERVICE: Bridge
(See Reverse)
5. Contract Number if known: N / A
6. Total Amount of Agreement: \$ 1,948,870.00
7. NAME OF AGENCY MONITORING AGREEMENT: Roads and Airports Department
8. Date Approved by Board: August 29, 1995
9. EXPIRATION DATE: Continous
(If not determined show as "Continous")
10. Date agreement for this service was initially approved with this Contractor: N / A
11. Date Agreement was last reviewed by County Council: N / A
12. METHOD OF AWARDDING AGREEMENT: Competitive bid
(See Reverse)
13. Is it likely this service will be continued in future years? Yes..... No
14. If yes, do you anticipate opening the process to potential new contract agencies? Yes...No...
If yes, when
15. Are there risk management considerations? YesNo
16. Has an evaluation program been established by the department? Yes.....No.....

Note: Items listed in capital letters must be completed.

COUNTY OF SANTA CLARA
CALIFORNIA

OFFICE OF THE BOARD OF SUPERVISORS
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-4321

MEMBERS OF THE BOARD
Michael M. Honda, District 1
Blanca Alvarado, District 2
Ron Gonzales, District 3
James T. Beall, District 4
Dianne McKenna, District 5

September 29, 1995

D. H. WATTS, PRESIDENT
GRANITE CONSTRUCTION COMPANY
P. O. BOX 50085
WATSONVILLE, CA 95077-5085

Dear Mr. Watts:

SUBJECT: AGREEMENT FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR)
OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY, CONTRACT NO. 95-22

The Board of Supervisors, at its regularly scheduled meeting on SEPTEMBER 19, 1995, accepted your bid and authorized the Chairperson to execute the above-mentioned Agreement with GRANITE CONSTRUCTION COMPANY. Enclosed you will find the original and a copy of said Agreement, two partially completed Performance and Payment Bonds, a copy of the Certificate of Insurance, and one copy of your Bid Form. Please have both Agreements signed and notarized before a Notary Public prior to returning them to this office at the address shown above. The Performance and Payment Bonds and the Certificate of Insurance are for the use of your Bonding and Insurance Agents and should also be returned to this office. The copy of the Bid Form is for your information and files.

As stated in the Bid Form, specific bonds and insurance are required by the County before a contract will be entered into with your company. Within 17 days from the date of this letter, please provide all required bonds and insurance documentation to this office for review and approval. If your company is unable to provide satisfactory bonds or insurance by the deadline established by the County, your bid may be rejected and no agreement will be entered into with your company. The County may also obtain a forfeiture of your bid security.

After the bonds, insurance and Agreement are reviewed and approved by the County, a fully executed copy of the Agreement will be sent to you.

Very truly yours,



Erline Jones
Deputy Clerk

Enclosures

cc: ROADS AND AIRPORTS ADMINISTRATION
(For Steve Burton)

STATE OF CALIFORNIA - DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF APPRENTICESHIP STANDARDS

TO: California Department of Industrial Relations
Division of Apprenticeship Standards
P. O. Box 603
San Francisco, California 94101

FROM: AWARDING AGENCY

EXTRACT OF
PUBLIC WORKS CONTRACT AWARD

820041000
COUNTY OF SANTA CLARA
OFFICE OF THE BOARD OF SUPERVISORS
COUNTY GOVERNMENT CENTER, 10th FLR. E. WING
70 WEST HEDDING STREET
SAN JOSE, CALIFORNIA 95110

A CONTRACT TO PERFORM PUBLIC WORKS UNDER LABOR CODE SEC. 1777.5 HAS BEEN AWARDED TO:

2. Name of General Contractor	3. Contractor's License Number		
GRANITE CONSTRUCTION COMPANY	89		
4. Mail Address (Street # or P.O. Box)	5. City		
P. O. BOX 50085	WATSONVILLE, CA		
	6. Zip Code	7. Telephone Number	
	95077-5085	(408) 724-1011	
8. Address or Location of Public Works Site			
SUNNYVALE OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY			
9. Contract or Project Number	10. Dollar Amount of Contract Award		
BD-95-22	\$ 2,090,443.45		
11. Starting Date	12. Completion Date	13. Number of Working Days	
OCTOBER 19, 1995	AUGUST 25, 1996	220	
14. Type of Construction	15. New Construction or Alterations?		
SEISMIC RETROFIT AND WIDENING OF SVLE. OVERHEAD BRIDGE AT LAWRENCE EXPRESSWAY	ALTERATION		
16. Classification or Type of Workman			
17.			
Is language included in the Contract Award to effectuate the provisions of Section 177.5 as required by the Labor Code? YES			
Is language included in the Contract Award to effectuate the provisions of Section 1776, as required by the Labor Code? YES			
18. Signature	19. Title	20. Date	
<i>Erline Jones</i>	Deputy Clerk	September 29, 1995	
21. Printed or Typed Name	22. Telephone Number		
ERLINE JONES	(408) 299-4321		
23. Department to Contact	24. Telephone Number		
ROADS AND AIRPORTS - STEVE BURTON	(408) 321-5892		

SECTION 112 BID PROPOSAL

BID FORM 1

FROM: GRANITE CONSTRUCTION COMPANY

ADDRESS: P.O. Box 50085, Watsonville, CA 95077-5085

PHONE: (408) 724-1011

TO: The County of Santa Clara, herein called Owner:

1. Pursuant to and in compliance with the Notice to Bidders and the Contract Documents relating to
Seismic Retrofit and Widening of Sunnyvale Overhead at Lawrence Expressway
(Bridge # 37C-198), Federal Project No. DPC-0040(001) & STPLNZ-5937(019)

the undersigned bidder, having become thoroughly familiar with the local conditions affecting the performance and the costs of the Work at the place where the Work is to be done and having fully inspected the site in all particulars, hereby proposes and agrees to fully perform the Work within the time stated and in strict accordance with the Contract Documents (including the furnishing of any and all labor and materials) and do all the work required to construct and to complete said work in accordance with the Contract Documents.

Addenda

The bidder acknowledges receipt of the following addenda to the Contract Documents:

Addendum No. _____, date _____

Addendum No. _____, date _____

Addendum No. _____, date _____

Addendum No. _____, date _____

Failure to acknowledge receipt of all addenda shall cause the bid to be considered non-responsive to the Contract Documents. Acknowledged receipt of each addendum must be clearly established and included with the offer.

BID SCHEDULE

PROJECT: SEISMIC RETROFIT & WIDENING OF SUNNYVALE O.H / LAWRENCE EXPY.

BRIDGE #: 37C - 198

FEDERAL PROJECT # DPC-0040(001) DEMONSTRATION PROJECT

STPLNZ-5937(019) SEISMIC RETROFIT PROJECT

BID OPENING: THURSDAY JULY 27, 1995

ITEM NO.	ITEM CODE	ITEM	ESTIMATED QUANTITY	UNITS	UNIT PRICE (\$)	TOTAL PRICE (\$)
1	66001	SUPPLEMENTAL WORK	1	LS	\$200,000.00	\$200,000.00
2	70010	PROGRESS SCHEDULE (CRITICAL PATH)	1	LS	7,200-	7,200
3	72008	EXCAVATION SHORING	1	LS	33,635-	33,635-
4 (S)	120090	CONSTRUCTION AREA SIGNS	1	LS	1,700-	1,700-
5 (S)	120100	TRAFFIC CONTROL SYSTEM	1	LS	13,740-	13,740-
6	120151	TEMPORARY TRAFFIC STRIPE (TAPE)	6000	LF	165	9,900-
7	120152	TEMPORARY TRAFFIC MARKING (TAPE)	300	SF	1050	3,150-
8	120154	TEMPORARY PAVEMENT MARKER	100	EA	315	315-
9	129000	TEMPORARY RAILING (TYPE K)	2360	LF	1280	30,208-
10	129100	TEMPORARY CRASH CUSHION MODULE	48	EA	230-	11,040-
11	150306	REPAIR SPALLED CONCRETE	50	SF	150-	7,500-
12	157561	BRIDGE REMOVAL (PORTION)	1	LS	95,000-	95,000-
13	160101	CLEAR AND GRUB	1	LS	3,710-	3,710-
14 (F)	192003	STRUCTURE EXCAVATION (BRIDGE)	260	CY	55-	14,300-
15 (F)	193003	STRUCTURE BACKFILL (BRIDGE)	100	CY	125-	12,500-
16	390124	ASPHALT CONCRETE (TYPE B, 1/2" MAX. GR.)	85	TON	82-	6,970-
17 (S)	490609	60" DIA. C.I.D.H PILE	160	LF	380-	60,800-
18	490713	FURNISH PILING (CLASS 70)	2140	LF	8-	17,120-
19 (S)	490714	DRIVE PILE (CLASS 70)	30	EA	1,575-	47,250-
20 (F)	510051	STRUCTURAL CONCRETE (BRIDGE FOOTING)	91	CY	300-	27,300-
21 (F)	510053	STRUCTURAL CONCRETE (BRIDGE)	510	CY	500-	255,000-
22 (F)	510086	STRUCTURAL CONCRETE (APPROACH SLAB TYPE N)	33	CY	500-	16,500-
23	511106	DRILL AND BOND DOWEL	1420	LF	28-	39,760-
24	511109	DRILL AND BOND DOWELS (EPOXY CARTRIDGE)	85	LF	2957	2,51345
25 (S)	519102	JOINT SEAL (TYPE AL)	400	LF	27652660 RC	11,040-

BID SCHEDULE							
PROJECT: SEISMIC RETROFIT & WIDENING OF SUNNYVALE O.H / LAWRENCE EXPY.							
BRIDGE #:		37C - 198					
FEDERAL PROJECT #		DPC-0040(001) DEMONSTRATION PROJECT					
		STPLNZ-5937(019) SEISMIC RETROFIT PROJECT					
BID OPENING:		THURSDAY JULY 27, 1995					
ITEM NO.	ITEM CODE	ITEM	ESTIMATED QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE	
26	(S)(F)	520102	BAR REINFORCING STEEL (BRIDGE)	161000	LB	0 ⁷⁵ / ₁₀₀	120,750-
27	(S)(F)	550203	FURNISH STRUCTURAL STEEL (BRIDGE)	280000	LB	1 ²⁰ / ₁₀₀	336,000-
28	(F)	550204	ERECT STRUCTURAL STEEL (BRIDGE)	280000	LB	0 ⁵⁰ / ₁₀₀	140,000-
29	(S)	590115	CLEANING AND PAINTING STRUCTURAL STEEL	1	LS	61,000-	61,000-
30	(F)	721810	SLOPE PAVING (CONCRETE)	100	CY	280-	28,000-
31		731505	MINOR CONCRETE (CURB & SIDEWALK)	20	CY	790-	15,800-
32	(S)(F)	750501	MISCELLANEOUS METAL (BRIDGE)	1920	LB	4 ²⁰ / ₁₀₀	8,064-
33		832003	METAL BEAM GUARD RAILING (WOOD POST)	160	LF	25-	4,000-
34		833032	CHAIN LINK RAILING (TYPE 7)	800	LF	30-	24,000-
35		833140	CONCRETE BARRIER (TYPE 26)	800	LF	80-	64,000-
36		839483	CONCRETE BARRIER (TYPE 50A)	400	LF	37-	14,800-
37	(S)	840653	PAINT TRAFFIC STRIPE	12700	LF	0 ¹⁵ / ₁₀₀	1,905-
38		850203	PLACE PAVEMENT MARKER	200	EA	2 ⁹⁵ / ₁₀₀	590-
39	(S)	861503	MODIFY LIGHTING	1	LS	92,000-	92,000-
40		999990	MOBILIZATION	1	LS	209,100-	209,100-
41		070000A	TRENCH SAFETY	1	LS	705-	705-
42		071110A	POTHOLING	4	EA	1,262-	5,048-
43		071190A	ENGINEER'S FACILITY	1	LS	20,000-	20,000-
44		170200A	WATERING (NON-POTABLE)	1	LS	1,400-	1,400-
45			RELATIONS WITH RAILROAD	1	LS	14,000-	14,000-
46			CABLE ANCHOR ASSEMBLY (BREAK-AWAY TYPE A)	2	EA	565-	1,130-
TOTAL BID PRICE:							
Sum of Bid Items 1 through 46							
TWO MILLION, NINETY THOUSAND, FOUR HUNDRED FORTY-THREE DOLLARS & FORTY-FIVE CENTS			2,090,443 ⁴⁵ / ₁₀₀				
(WRITE BID AMOUNT IN WORDS AND FIGURES)			(DOLLARS)				

2. It is understood that Owner reserves the right to reject this bid, but that this bid shall remain open and shall not be withdrawn for a period of sixty (60) days from the date prescribed for its opening.
3. Attached hereto and incorporated herein is the list of subcontractors to be employed by the undersigned in the performance of the work.
4. If written notice of the acceptance of this bid is mailed or delivered personally to the undersigned within sixty (60) days after the date set for the opening of this bid, or at any time thereafter before it is withdrawn, the undersigned bidder shall execute and deliver the agreement contained in the Contract Documents to Owner in accordance with this bid as accepted, and will also furnish and deliver to Owner the Performance Bond, Payment Bond for Public Works as specified, and proof of insurance coverage as required in these Special Provisions, all within twenty (20) days after the personal delivery or after deposit in the mail of the notification of acceptance of this bid. The above mentioned bonds shall be satisfactory to, and on the forms approved by Owner.
5. Notice of acceptance or request for additional information may be addressed to the undersigned at the address set forth below.
6. The undersigned declares that this 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 undersigned has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid and has not directly colluded or agreed with any bidder or anyone else to put in a sham bid or to refrain from bidding; that the undersigned has not directly or indirectly sought by agreement, communication or conference with anyone to fix his bid price or the bid price of any other bidder, or to fix any overhead, profit or cost element of such bid price or of that of any other bidder, or to secure any advantage against the Owner or anyone interested in the proposed contract; that the only persons or parties interested in this bid as principals are those named herein; that all statements contained in this bid are true; that the undersigned has not directly or indirectly submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any other person, partnership, corporation or association except to such person or persons as have a direct financial interest in bidder's general business.

7. Wherever in this proposal an amount is stated in both words and figures, in case of discrepancy between words and figures the words shall prevail; if all or any portion of this proposal is required to be given in unit prices and totals and a discrepancy exists between any such unit prices and totals so given, the unit prices shall prevail in computing the extensions for the totals shown on the bid price schedule, and for purposes of computation of payments for increased or decreased quantities of actual authorized work performed in the completion of the contract. If the proposal contains an arithmetical error in the computation of unit price extensions or in summation of bid item totals, THE OWNER WILL CORRECT AND REVISE THE TOTAL BID PRICE ACCORDINGLY. OWNER WILL NOT MAKE ANY CHANGES IN THE TOTALS SHOWN ON THE BID SCHEDULE FOR "LUMP SUM".

8. Basis for Award of Contract

Award of this contract shall be made to the bidder quoting the lowest TOTAL BID PRICE (as corrected by OWNER as specified above), provided that the bid is responsive in all respects to these contract documents.

The quantities shown on the bid price schedule are approximate only, being given as a basis for the comparison of bids and the OWNER does not, expressly or by implications, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or class portion of work, as may be deemed necessary or advisable by the Engineer.

9. The undersigned certifies that the Contract Documents have been thoroughly read and understood and that, except as may be specifically noted and contained in addenda, there are no discrepancies or misunderstandings as to the meaning, purpose or intent of any provision in the Contract Documents or as to the interpretation of the same. The undersigned hereby incorporates by reference the same as though set out in full all provisions of the Notice to Bidders published by Owner and pertaining to the work described in this bid.

Accompanying this proposal is Bidders Bond (insert word "cash," "cashier's check," "certified check," or "bidder's bond" as the case may be) in amount equal to at least ten percent of total of the bid.

The names of all persons as principal interested in the foregoing bid are as follows:

IMPORTANT NOTICE: If bidder or other interested person is a corporation, give legal name of corporation, state where incorporated and names of the president and secretary thereof; if a partnership, give name of the firm, also names of all individual co-partners composing firm; if bidder or other interested person is an individual, give first and last names in full. If a bidder is a joint venture, supply the above information for each joint venture partner. All bidders must hold an active California Contractors license at time of contract award.

GRANITE CONSTRUCTION COMPANY

Incorporated: State of California

See Attached

Licensed in accordance with an act providing for the registration of Contractors in California.

Bidder's license number is 89.

The license expiration date is 5/31/97.

The representations made herein are made under penalty of perjury.
GRANITE CONSTRUCTION COMPANY

Sign and date here: BY:  July 27, 1995
Signature of Bidder Date

R.C. Allbritton, Vice President

NOTE: (1) If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation.

GRANITE CONSTRUCTION COMPANY
P O BOX 50085
WATSONVILLE, CA 95077-5085
Officers

R.C. Solari	Chairman of the Board
D.H. Watts	President Chief Executive Officer
P.M. Costanzo	Senior Vice President Manager - HCD Division Assistant Secretary
W.G. Dorey	Senior Vice President Manager - Branch Division Assistant Secretary
R.C. Allbritton	Vice President Treasurer Assistant Financial Officer Assistant Secretary
W.E. Barton	Vice President Chief Financial Officer Secretary
M.E. Boitano	Vice President Assistant Mgr.- Branch Division Assistant Secretary
R.A. Lewis	Vice President Assistant Mgr. - HCD Division Assistant Secretary
A.B. Nickerson	Vice President Controller Assistant Financial Officer Assistant Secretary
D.R. Grazian	Tax Manager Assistant Secretary

BID FORM 2

**DESIGNATION OF "SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT"
SUBCONTRACTORS**

Bidder shall completely fill in the form below for each subcontract that exceeds one-half percent (1/2%) of the prime contractor's Total Base Bid, or in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractors total bid or ten thousand dollars (\$10,000), whichever is greater. A subcontractor is one who contracts directly with the prime contractor, and: 1) performs work or labor pursuant to this contract; or 2) provides a service to the prime contractor; or 3) specially fabricates and installs a portion of the work. This shall be done in compliance with the Public Code of the State of California, Section 4100-4113 and any amendment thereof.

NAME OF SUBCONTRACTOR	ADDRESS	DIVISION OF WORK
STATE WIDE BARRIER	Street City, Zip OAKLAND Telephone (510) 632-5757	BARRIER (PARTIAL)
MBI	Street City, Zip LIVERMORE Telephone (510) 373-1986	MBGR CL RAIL BARRIER (PARTIAL)
	Street City, Zip Telephone	DRILLING RC
HECI	Street City, Zip SAN JOSE Telephone 408 286-8625	ELECTRICAL
RILEYS	Street City, Zip BENICIA Telephone 707 746-6404	STRIPE
NOVA	Street City, Zip MARTINEZ Telephone 510 798-1400	PAINT
JOHNSON, WESTERN	Street City, Zip SAN LEANDRO Telephone 510 568-8112	SHOTCRETE

GRANITE CONSTRUCTION COMPANY

By:



Bidder's Signature

R.C. Allbritton, Vice President

DESIGNATION OF "SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT" SUBCONTRACTORS

Bidder shall completely fill in the form below for each subcontract that exceeds one-half percent (1/2%) of the prime contractor's Total Base Bid, or in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractors total bid or ten thousand dollars (\$10,000), whichever is greater. A subcontractor is one who contracts directly with the prime contractor, and: 1) performs work or labor pursuant to this contract; or 2) provides a service to the prime contractor; or 3) specially fabricates and installs a portion of the work. This shall be done in compliance with the Public Code of the State of California, Section 4100-4113 and any amendment thereof.

NAME OF SUBCONTRACTOR	ADDRESS	DIVISION OF WORK
	Street City, Zip Telephone	MINOR CONCRETE RC
MISSION CITY REBAR	Street City, Zip SANTA CLARA Telephone 408 727 8733	REBAR
FOUNDATION CONSTRUCTORS	Street City, Zip ANTIOCH Telephone 510 754-6633	PILING
MC GRATH	Street City, Zip SAN RAFAEL Telephone 801 785-8888	STR. STEEL
	Street City, Zip Telephone	JOINT SEAL RC
MALCOLM	Street S. SAN FRANCISCO City, Zip Telephone 415 952-9052	CIDA
	Street City, Zip Telephone	

GRANITE CONSTRUCTION COMPANY

By: 

Bidder's Signature

R.C. Allbritton, Vice President

DESIGNATION OF "SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT"
SUBCONTRACTORS

Bidder shall completely fill in the form below for each subcontract that exceeds one-half percent (1/2%) of the prime contractor's Total Base Bid, or in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractors total bid or ten thousand dollars (\$10,000), whichever is greater. A subcontractor is one who contracts directly with the prime contractor, and: 1) performs work or labor pursuant to this contract; or 2) provides a service to the prime contractor; or 3) specially fabricates and installs a portion of the work. This shall be done in compliance with the Public Code of the State of California, Section 4100-4113 and any amendment thereof.

NAME OF SUBCONTRACTOR	ADDRESS	DIVISION OF WORK
Street City, Zip Telephone		
Street City, Zip Telephone		
Street City, Zip Telephone		
Street City, Zip Telephone		
Street City, Zip Telephone		
Street City, Zip Telephone		
Street City, Zip Telephone		

GRANITE CONSTRUCTION COMPANY

By:



Bidder's Signature

R.C. Allbritton, Vice President

DESIGNATION OF INSURANCE AGENT OR BROKER

It is proposed that the following insurance agent or broker will provide policies of insurance certificates as are required by the Contract Documents.

Insurance Agent or Broker: McSherry & Hudson

Street: P.O. Box 2690

City, Zip: Watsonville, CA 95077-2690

Telephone: (408) 724-3841

Name of Insurance Company
Providing Coverage: CNA Insurance Companies

Admitted in California: Yes ☒ No ☐

DESIGNATION OF BONDING AGENT OR SURETY

It is proposed that the following bonding agent or surety will provide payment and performance bonds as are required by the Contract Documents.

Bonding Agent or Surety: FEDERAL INSURANCE COMPANY

Street: 15 Mt. View Road

City, Zip: Warren, NJ 07059

Telephone: (908) 903-2000

Name of Surety Company
Providing Bonds: FEDERAL INSURANCE COMPANY

Admitted in California: Yes ☒ No ☐

Sign and date here: BY: GRANITE CONSTRUCTION COMPANY July 27, 1995
Signature of Bidder Date
R.C. Allbritton, Vice President

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

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

Has the bidder, or any officer of the bidder, or any employee of the bidder who may have a proprietary interest in the bid, ever been disqualified, removed or otherwise prevented from bidding on or completing a federal, state, or local governmental project because of a violation of law or safety regulation.

Yes _____ No X

If your answer is yes, explain the circumstances.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed at Watsonville, CA, on July 27, 1995

GRANITE CONSTRUCTION COMPANY

BY: 

Signature of Bidder: R.C. Allbritton, Vice President

NOTE: If this declaration is signed outside the State of California, the signature will require a notarized acknowledgment.

FAIR EMPLOYMENT PRACTICES PROVISIONS

In connection with the performance of work under this contract, the contractor agrees as follows:

1. The contractor will not willfully discriminate against any employee or applicant for employment because of race, color, religion, sex, ancestry, national origin, physical handicap, medical condition, or marital status. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, sex, religion, ancestry or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the awarding authority setting forth the provisions of this Fair Employment Practices Section.
2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Owner advising the said labor union or workers' representative of the contractor's commitments under this understanding, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
3. The contractor will permit access to his/her records of employment, employment advertisements, application forms, and other pertinent data and records by the Fair Employment Practices Act shall be regarded by the Owner as a basis for determining the contractor to be not a "responsible bidder" as to future contracts for which such contractor may submit bids, for revoking the contractor's prequalification rating, if any, and for refusing to establish, re-establish or renew a prequalification rating for the contractor.
4. A finding of willful violation of the Fair Employment Practices Section of the contract or of the Fair Employment Practices Act shall be regarded by the Owner as a basis for determining the contractor to be not a "responsible bidder" as to future contracts for which such contractor may submit bids, for revoking the contractor's prequalification rating, if any, and for refusing to establish, re-establish or renew a prequalification rating for the contractor.

The Owner shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429. Upon receipt of such written notice from the Fair Employment Practices Commission, the Owner shall notify the contractor that unless he demonstrates to the satisfaction of the Owner within a stated period that the violation has been corrected, his prequalification rating will be revoked at the expiration of such period.

5. The contractor agrees that should the Owner determine that the contractor has not complied with the Fair Employment Practices Section of this contract, then pursuant to Labor Code Sections 1735 and 1775, the contractor shall, as a penalty to the Owner, forfeit, for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance the penalties provided in the labor code for violation of prevailing wage rates. Such monies may be recovered from the contractor. The Owner may deduct any such damages from any monies due the contractor.

6. (a) Nothing contained in this Fair Employment Practices Section shall be construed in any manner or fashion so as to prevent the awarding authority from pursuing any other remedies that may be available at law.
 (b) Nothing contained in this Fair Employment Practices Section shall be construed in any manner or fashion so as to require or permit the hiring on public works, an employee not permitted by the National Labor Relations Act.

7. Prior to award of the contract, the contractor shall certify to the Owner that he has or will meet the following standards for affirmative compliance, which shall be evaluated in each case by the Owner:
 - (a) The contractor shall provide evidence, as required by the Owner, that he provide evidence, as required by the Owner, that he has notified all supervisors, foremen and other personnel officers in writing of the content of the anti-discrimination clause and their responsibilities under it.
 - (b) The contractor shall provide evidence, as required by the Owner, that he has notified all sources of employee referrals, (including unions, employment agencies, advertisements, department of employment) of the content of the anti-discrimination clause.
 - (c) The contractor shall file a basic compliance report, as required by the Owner. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also spell out the sources of the work force and who has the responsibility for determining who to hire, or whether or not to hire.
 - (d) Personally, or through his representatives, the contractor shall, through negotiations with the unions with whom he has agreements, shall attempt to develop an agreement which will:
 - 1) Spell out responsibilities for nondiscrimination in hiring, referral, upgrading and training.
 - 2) Otherwise implement an affirmative anti-discrimination program in terms of the unions' specific areas of skill and geography, to the end that qualified minority workers will be available and given an equal opportunity for employment.

(e) The contractor shall notify the contracting agency of opposition to the anti-discrimination clause by individuals, firms or organizations during the period of its prequalification.

8. The contractor will include the provisions of the foregoing paragraphs 1 through 7 in every first tier subcontract, so that such provisions will be binding upon each subcontractor.

SEAL:

(This certification shall be executed by the bidder in accordance with instructions in the Fair Employment Practices requirements. The bidder shall execute the certification at the time of submitting this bid.)

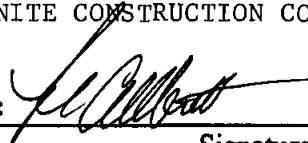
FAIR EMPLOYMENT PRACTICES CERTIFICATION

To the County of Santa Clara

The undersigned in submitting a bid for performing the following work by contract, hereby certifies that he has or will meet the standard of affirmative compliance with the Fair Employment Practices requirements.

GRANITE CONSTRUCTION COMPANY

BY:



Signature of Bidder

R.C. Allbritton, Vice President

P.O. Box 50085, Watsonville, CA

Business Address 95077-5085

N/A

Place of Residence

BIDDER CERTIFICATION OF COMPLIANCE WITH
EQUAL OPPORTUNITY/AFFIRMATIVE ACTION REQUIREMENTS
AND DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

Bidder hereby certifies understanding of the following County requirements pertaining to utilization of Disadvantaged Business Enterprises (DBEs) on this project and affirms that bidder will comply fully with the stated requirements.

- a. Subcontracts awarded to DBEs and payments made to certified DBE firms for services and purchases pertaining to the project will be counted toward attainment of the DBE goal as stated in the "Notice to Bidders."
- b. In order to be considered a "responsive bidder" eligible for award of the contract, the prime bidder must be the low bidder and reached the DBE goal or have demonstrated, in writing, to the satisfaction of the DBE Review Committee, good-faith efforts.
- c. DBE Records

The contractor shall maintain records of all subcontracts entered into with certified DBE subcontractors and records of materials purchased from a certified DBE supplier. Such records shall show the name and business address of each disadvantaged and woman subcontractor or vendor and the total dollar amount actually paid each DBE subcontractor or vendor.

Upon completion of the contract, a notarized summary of these records shall be prepared and certified correct by the contractor or his authorized representative, and shall be furnished to the Engineer within 30 days after acceptance.

- d. Noncompliance by the Contractor with the requirements of the regulations constitutes a breach of this contract and may result in termination of the contract or other appropriate remedy for such breach.

Bidder also certifies that he/she will inform, in writing, each subcontractor utilized on the project of his/her Equal Opportunity/ Affirmative Action obligations.

GRANITE CONSTRUCTION COMPANY

BY: 

Bidder's Signature

R.C. Allbritton, Vice President

July 27, 1995

Date

**CERTIFICATION WITH REGARD TO THE PERFORMANCE OF
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO
THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF
REQUIRED REPORTS**

The bidder X, proposed subcontractor _____, herein certifies that he has X, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive orders 10925, 11114, or 11246 (as amended by 11375), and that he has X, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee or Equal Employment Opportunity, all reports due under the applicable filing requirements.

Company GRANITE CONSTRUCTION COMPANY

By



Title R.C. Allbritton, Vice President

Date July 27, 1995

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 601.7 (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.

Form HC-44

BUY AMERICA CERTIFICATION

(Steel or Manufactured Products)

CFR 661.6 - Certification requirement for procurement of steel or manufactured products.

If steel or manufactured products (as defined in Section 661.3 and 661.6 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirements contained in Section 661.13(b) of this part.

Certificate of Compliance with Section 165 (a)-

The bidder hereby certifies that it will comply with the requirements of Section 165 (a) of the Surface Transportation Assistance Act of 1982 and the applicable regulations in 49 CFR part 661.

DATE July 27, 1995

SIGNATURE BY: 

TITLE R.C. Allbritton, Vice President

Certificate for Noncompliance with Section 165 (a)-

The bidder hereby certifies that it cannot comply with the requirements of Section 165 (a) of the Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165 (b) (2) or (b) (4) of the Surface Transportation Assistance Act and regulations in 49 CF12 part 661.7.

DATE _____

SIGNATURE _____

TITLE _____

TITLE 23, UNITED STATES CODE, SECTION 112 NON-COLLUSION AFFIDAVIT


In accordance with Title 23, United States Code, Section 112, the bidder hereby states, under penalty of perjury, that he has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract.

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

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

In accordance with Public Contract Code Section 10232, the Contractor hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediate preceeding two year period because of the Contractor's failure to comply with an order of the National Labor Relations Board.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed at Watsonville, CA, on July 27, 1995
GRANITE CONSTRUCTION COMPANY
BY: 
Signature of Bidder R.C. Allbritton, Vice President

NOTE: If this declaration is signed outside the State of California, the signature will require a notarized acknowledgment.

**BIDDER'S CERTIFICATION REGARDING SECTION 109 OF THE
JOINT RESOLUTION MAKING FURTHER CONTINUING APPROPRIATIONS FOR
FISCAL YEAR 1988, PUBLIC LAW 100-102**

COMPANY

The Bidder- GRANITE CONSTRUCTION hereby certifies under penalty of law that it (or any of its subcontractors or suppliers) **IS NOT** X or that it **IS** of a foreign country listed by the U.S. Trade Representative as a country denying fair and equitable opportunities to the U.S. At this time only Japan is listed.

GRANITE CONSTRUCTION COMPANY

By: 

Title: R.C. Allbritton, Vice President

Date: July 27, 1995

The procurement is subject to Section 109 of the Joint Resolution making further continuing appropriations for Fiscal Year 1988, Public Law 100-202. Specifically, Paragraph (a)(1) of Section 109 provides that:

None of the funds appropriated for Fiscal Year 1988 by this resolution or by any other law may be obligated or expanded to enter into any contract for the construction, alteration or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of the section.

At this time, only Japan is listed by the U.S. Trade Representative.

A certification in the affirmative will disqualify the bidder from the bidding process.

Independent of the above referenced certification, the prime contractor is required to include (and request) a certification in their subcontracts.

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION

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

- 1.) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- 2.) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- 3.) does not have a proposed debarment pending; and
- 4.) 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.

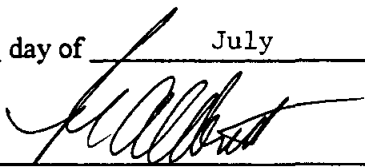
If there are any exceptions to this certification, insert the exceptions in the following space.

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.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed this 27th day of July, 19 95

BY:


Signature of Bidder R.C. Allbritton, Vice President

Note: 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.

CERTIFICATION
OF
RESTRICTIONS ON LOBBYING

I, R.C. Allbritton, hereby certify on

behalf of GRANITE CONSTRUCTION COMPANY that:

- (1) No Federal 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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.

Executed this 27th day of July, 19 95

BY: 

Signature of Bidder

R.C. Allbritton, Vice President

November 24, 1992

STOP NOTICE INFORMATION

PROJECT NAME: Sismic Retrofit and Widening of
Sunnyvale O.H/ Lawrence Expressway
Br. No. 37C-198

PROJECT/CONTRACT NUMBER: DPC-0040(001 & STPLNZ-5937(019)

COUNTY PROJECT MANAGER & DEPT: Gamini Rajapakse, Highway & Bridge Design
Roads & Airports,

CONTRACTOR'S NAME AND ADDRESS: GRANITE CONSTRUCTION COMPANY
P.O. Box 50085
Watsonville, CA 95077-5085

Reference: California Civil Code, Division 3, Part 4, Title 15, Chapter 4

The following is provided for the information of contractors, subcontractors and suppliers of labor, materials, equipment, and services under County Public Works contracts, and is not intended as legal advice. Advice of legal counsel should be obtained to ensure compliance with legal requirements relating to public works stop notices.

WHERE TO FILE: All original stop notices and preliminary 20 day notices (if required by California Civil Code 3098) must be filed with the County of Santa Clara Clerk of the Board of Supervisors located at 70 West Hedding Street, 10th Floor, East Wing, San Jose, CA 95110.

STOP NOTICE CONTENTS: See California Civil Code 3103. Written notice, signed and verified by the claimant and including information such as the kind of labor, equipment, materials or services furnished or agreed to be furnished by the claimant, the name of the person/entity to or for whom the same was done or furnished; the amount in value of that already done or furnished and/or agreed to be done or furnished. Blank Stop Notice forms are commercially available.

WHO MAY SERVE STOP NOTICE: See California Code 3181. All persons furnishing labor, materials, equipment or services to the job (except the original contractor) and persons furnishing provisions, provider or other supplies.

HOW THE STOP NOTICE IS SERVED: See California Code 3103. Served by personal service, registered mail, or certified mail.

TIME FOR SERVICE: See California Civil Code 3184. Stop notices must be served before the expiration of: 30 days after the recording of a Notice of Completion (sometimes referred to as a Notice of Acceptance) or Notice of Cessation, if such notice is recorded. If no Notice of Completion or Notice of Cessation is recorded, 90 days after actual completion or cessation.

NOTICE OF PUBLIC ENTITY (OWNER): See California Civil Code 3185. Provided that a stop notice claimant has paid to the Clerk of the Board of Supervisors the sum of \$2.00 at the time of filing a stop notice, the Clerk shall provide each stop notice claimant with notice of the filing of a Notice of Completion or after the cessation of labor has been deemed a completion of a public work or after the acceptance of completion, whichever is later, to each stop notice claimant, by personal service or registered or certified mail.

RELEASE OF STOP NOTICE: See California Civil Code 3196 and following. A stop notice can be released if the original contractor files a corporate surety bond with the Clerk of the Board of Supervisors, in the amount of 125% of the stop notice claim. Alternatively, the original contractor may file an affidavit pursuant to California Civil Code 3198, stating objections to the validity of the stop notice. A counteraffidavit may be filed by the claimant pursuant to 3200 and a summary legal proceeding may be held pursuant to 3201 and following, to determine the validity of the stop notice. If no counteraffidavit is filed, the stop notice funds shall be released. Alternatively, the Stop Notice claimant may file a Release in a form which substantially complies with California Civil Code 3262.

STOP NOTICE LAWSUIT: See California Civil Code 3210 through 3214. These sections provide that a stop notice is perfected only by the filing of a lawsuit. A lawsuit must be filed no sooner than 10 days after service of a stop notice and no later than 90 days after the expiration of the time for filing stop notices. Notice of suit must be given to the Clerk of the Board within 5 days after commencement. The Court has the discretionary right to dismiss the lawsuit if it is not brought to trial within two years.

I HEREBY ACKNOWLEDGE THAT I HAVE RECEIVED AND READ THE ABOVE STOP NOTICE INFORMATION AND IF I AM AWARDED THIS CONTRACT, I AGREE TO INCLUDE A COPY OF THIS PAGE IN ALL SUBCONTRACTS AND CONTRACTS FOR LABOR, MATERIALS, EQUIPMENT, AND SERVICES THAT I ENTER INTO FOR THIS PROJECT:

GRANITE CONSTRUCTION COMPANY

Bidder's Signature: BY:  Date: July 27, 1995

Bidder's Name & Title (Print): R.C. Allbritton, Vice President

NONCOLLUSION AFFIDAVIT TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

State of California
County of Santa Clara

R.C. Allbritton being first duly sworn, deposes and says that he or she is Vice President of GRANITE CONSTRUCTION, the party making the foregoing bid, 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 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.

*COMPANY

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

I declare under penalty of perjury that the foregoing information is true and correct.

Executed at

Watsonville, CA, on July 27, 1995

BY:

R.C. Allbritton, Vice President

NOTE: If this declaration is signed outside the State of California, the signature will require a notarized acknowledgment.

BIDDER'S BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, GRANITE CONSTRUCTION COMPANY

as Principal, and FEDERAL INSURANCE COMPANY

as Surety, are held and firmly bound unto the County of Santa Clara, a political subdivision of the State of California (hereinafter called the County), in the penal sum of Ten Percent (10%) of the total aggregate amount of the bid of the Principal above named, submitted by said Principal to County for the Work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that a bid to the County for certain construction specifically described as follows, for which bids are to be opened on July 27, 1995 has been submitted by principal to County: (Copy here the exact description of Work, including location, from bid form). Seismic Retrofit and Widening of Sunnyvale Overhead at Lawrence Expressway (Bridge #37C-198)

NOW, THEREFORE, if the aforesaid Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefor, or if no period be specified, within twenty (20) days after the prescribed forms are presented to him/her for signature, enter into a written contract with the County, in the prescribed form, in accordance with the bid as accepted, and file the two bonds with the County, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, or in the event of the withdrawal of said bid within the period specified or the failure to enter into such contract and give such bonds within the time specified, if the Principal shall pay the County the difference between the amount specified in said bid and the amount for which the County may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the County in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

BIDDER'S BOND

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the Work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

In the event suit is brought upon said bond by the County and judgment is recovered, the Surety shall pay all costs incurred by the County in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this

17th day of July, 19 95

GRANITE CONSTRUCTION/COMPANY (Seal)

BY: [Signature] (Seal)

R.C. Allbritton, Vice (Seal)
Principal President

FEDERAL INSURANCE COMPANY (Seal)

BY: [Signature] (Seal)

Kathleen Kenan, Attorney- (Seal)
Surety in-Fact

15 Mt. View Road

Warren, NJ 07059
Address

NOTE: Signature of those executing for Surety requires a notarized acknowledgement.

STATE OF CALIFORNIA

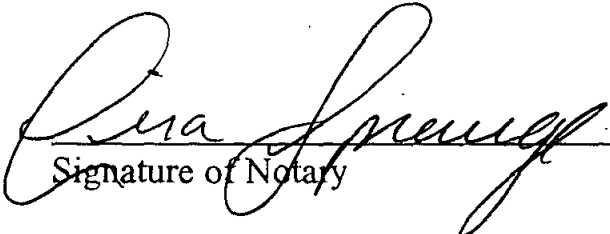
COUNTY OF Santa Cruz

On July 17, 19 95, before me, the undersigned notary public,

personally appeared Kathleen Kenan,

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that 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 of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


Signature of Notary



POWER OF ATTORNEY
FEDERAL INSURANCE COMPANY
ATTN: SURETY DEPARTMENT
15 Mountain View Road, Warren, NJ 07059
Telephone: (908) 903-2000
Fax No.: (908) 903-3656

Know all Men by these Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana Corporation, has constituted and appointed, and does hereby constitute and appoint Kathleen Kenan, R.C. Allbritton, William L. Elkins and Jigisha Desai of Watsonville, California -----

each its true and lawful Attorney-in-Fact to execute under such designation in its name and to affix its corporate seal to and deliver for and on its behalf as surety thereon or otherwise, bonds or obligations on behalf of **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 this 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 this Company.

In Witness Whereof, the said **FEDERAL INSURANCE COMPANY** has, pursuant to its By-Laws, caused these presents to be signed by its Vice President and Assistant Secretary and its corporate seal to be hereto affixed this 22nd day of March 19 95



Assistant Secretary

FEDERAL INSURANCE COMPANY

By

Gerardo G. Mauriz
Gerardo G. Mauriz
Vice President

STATE OF NEW JERSEY
County of Somerset

SS.

On this 22nd day of March 19 95, before me personally came Kenneth C. Wendel to me known and by me known to be Assistant Secretary of **FEDERAL INSURANCE COMPANY**, the corporation described in and which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel being by me duly sworn, did depose and say that he is Assistant Secretary of **FEDERAL INSURANCE COMPANY** and knows the corporate seal thereof; that the seal affixed to the foregoing Power of Attorney is such corporate seal and was thereto affixed by authority of the By-Laws of said Company, and that he signed said Power of Attorney as Assistant Secretary of said Company by like authority; and that he is acquainted with Gerardo G. Mauriz and knows him to be the Vice President of said Company, and that the signature of said Gerardo G. Mauriz subscribed to said Power of Attorney is in the genuine handwriting of said Gerardo G. Mauriz and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



STATE OF NEW JERSEY
County of Somerset

SS.

Acknowledged and Sworn to before me
on the date above written.

Janet A. Scavone
Notary Public

CERTIFICATION

JANET A. SCAVONE
Notary Public, State of New Jersey
No. 2066520
Commission Expires January 6, 2000

I, the undersigned, Assistant Secretary of **FEDERAL INSURANCE COMPANY**, do hereby certify that the following is a true excerpt from the By-Laws of the said Company as adopted by its Board of Directors and that this By-Law is in full force and effect.

*ARTICLE XVIII

Section 2. All bonds, undertakings, contracts and other instruments other than as above for and on behalf of the Company which it is authorized by law or its charter to execute, may and shall be executed in the name and on behalf of the Company either by the Chairman or the Vice Chairman or the President or a Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations, except that any one or more officers or attorneys-in-fact designated in any resolution of the Board of Directors or the Executive Committee, or in any power of attorney executed as provided for in Section 3 below, may execute any such bond, undertaking or other obligation as provided in such resolution or power of attorney.

Section 3. 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 Vice 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, Vice Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile 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 bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile 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 further certify that said **FEDERAL INSURANCE COMPANY** is duly licensed to transact fidelity and surety business in each of the States of the United States of America, District of Columbia, Puerto Rico, and each of the Provinces of Canada with the exception of Prince Edward Island; and is also duly licensed to become sole surety on bonds, undertakings, etc., permitted or required by law.

I, the undersigned Assistant Secretary of **FEDERAL INSURANCE COMPANY**, do hereby certify that the foregoing Power of Attorney is in full force and effect.

Given under my hand and the seal of said Company at Warren, N.J., this 17th day of July 19 95



Patricia A. Johnson
Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE WRITE TO US AT THE ADDRESS LISTED ABOVE.

SECTION 102 PROPOSAL REQUIREMENTS AND CONDITIONS

102-1.01 -- GENERAL

The bidder's attention is directed to Section 2, "Bid Requirements and Conditions," of the County Standard Specifications, and these Special Provisions for the requirements and conditions which must be observed in the preparation of the forms and the submission of the bid.

In order to receive consideration, bids shall be made in accordance with the following instruction:

Each of the documents contained in Section 112, "Bid Proposal" is to be properly filled in and the phraseology thereof must not be changed.

It is necessary that signatures appear on the following bid form sheets at the time bids are submitted:

Bid Form 1f

Bid Form 2

Bid Form 4

Bid Form 5

Bid Form 6b

Bid Form 7

Bid Form 8

Bid Form 9

Bid Form 10

Bid Form 11

Bid Form 12

Bid Form 13

Bid Form 14a

Bid Form 15

Signatures must also appear on the Bidder's Bond at the time of submittal of bid.

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134

Approved 80 Accepted Adopt Denied Presented

BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA

Phyllis A. Perez, Clerk of the Board

By Erline Jones
Deputy Clerk

Date: 9-19-95



REPORT ON BIDS

TO: COUNTY BOARD OF SUPERVISORS For Board Approval on August 29, 1995

Bid Opening Date: July 27, 1995 Number of Bids: 6

Project: Seismic Retrofit and Widening of Sunnyvale O.H. at Lawrence Expwy.
Bridge No. 37C-198 Federal Project No. DPC-0040(001), STPLNZ-5937(019)

Engineer's Estimate: \$ 2,500,000.00 DBE Goals 17 % ☐ N/A

Reasonable Price: \$ 2,750,000.00 Actual DBE 23 % Met Goals or Good Faith Effort

Low Bid: \$ 1,948,870.00 ☒ Yes ☐ No

By: Lionsgate Corporation, P.O.Box 408, Alamo, CA 94507

☐ Recommend Award to Low Bidder & Ratification of Addenda No. None (Attached)

☐ Recommend Award to 2nd (2nd, 3rd, 4th) Low Bidder: Granite Construction Company
and Ratification of Addenda No. None (Attached).

Actual DBE 36 % Met Goals or Good Faith Effort
☒ Yes ☐ No

Bid: \$ 2,090,443.45

☐ Postpone Award week(s) Pending Approval of Board of Supervisors.

☐ Reject All Bids. Readvertise on; With Bid Opening on
(Date) (Date)

☐ Reject All Bids. Low Bid Higher Than Reasonable Price.

☐ Significant Variance (see attached report)

☐ Bid Irrigularity (see attached report)

☐ See attached bid protest and response from County Council, Bill Anderson

Approved: Gamini Rajapakse Project Manager (Gamini Rajapakse) (408) 321-7144 08-21-95
(phone) (Date)

Eleanore Solarez DBE Officer (Eleanore Solarez)

Rollo Parsons Branch Manager (Rollo Parsons)

Christine Fischer Department Director (Christine Fischer)

ORIGINAL

SEP 19 1995
AUG 29 1995

ATTACHMENT F

CONTRACT INFORMATION SHEET

1. NAME OF CONTRACTOR: Lionsgate Corporation
2. ADDRESS OF CONTRACTOR: P.O.Box, 408, Alamo, CA 94507
3. CATEGORY OF SERVICE: Construction
(See Reverse)
4. IDENTIFY SERVICE: Bridge
(See Reverse)
5. Contract Number if known: N / A
6. Total Amount of Agreement: \$ 1,948,870.00
7. NAME OF AGENCY MONITORING AGREEMENT: Roads and Airports Department
8. Date Approved by Board: August 29, 1995
9. EXPIRATION DATE: Continuous
(If not determined show as "Continuous")
10. Date agreement for this service was initially approved with this Contractor: N / A
11. Date Agreement was last reviewed by County Council: N / A
12. METHOD OF AWARDED AGREEMENT: Competitive bid
(See Reverse)
13. Is it likely this service will be continued in future years? Yes..... No
14. If yes, do you anticipate opening the process to potential new contract agencies? Yes...No...
If yes, when
15. Are there risk management considerations? YesNo
16. Has an evaluation program been established by the department? Yes.....No.....

Note: Items listed in capital letters must be completed.

ATTACHMENT F

CONTRACT INFORMATION SHEET

1. NAME OF CONTRACTOR: Granite Construction Co.
2. ADDRESS OF CONTRACTOR: 120 Granite Rock Way, San Jose, CA 95136
3. CATEGORY OF SERVICE: Construction
(See Reverse)
4. IDENTIFY SERVICE: Bridge
(See Reverse)
5. Contract Number if known: N / A
6. Total Amount of Agreement: \$ 2,090,443.45
7. NAME OF AGENCY MONITORING AGREEMENT: Roads and Airports Department
8. Date Approved by Board: August 29, 1995
9. EXPIRATION DATE: Continuous
(If not determined show as "Continuous")
10. Date agreement for this service was initially approved with this Contractor: N / A
11. Date Agreement was last reviewed by County Council: N / A
12. METHOD OF AWARDED AGREEMENT: Competitive bid
(See Reverse)
13. Is it likely this service will be continued in future years? Yes..... No
14. If yes, do you anticipate opening the process to potential new contract agencies? Yes...No...
If yes, when
15. Are there risk management considerations? YesNo
16. Has an evaluation program been established by the department? Yes.....No.....

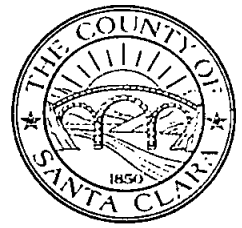
Note: Items listed in capital letters must be completed.

CATEGORIES AND TYPES OF SERVICES

<u>Category</u>	<u>Examples of Service</u>
1. Construction:	Building, Roads, Remodeling
2. Rental, Lessor:	Land, Building, Concessions
3. Rental, Lessee:	Space, Equipment
4. Professional Service:	Architectural, Consulting, Engineering, Legal, Audit, Bond Counsel
5. Citizen Services: Purchased by County	Mental Health, Alcoholism Counseling Training, Homemaker Services, Youth Science, Art Council
6. Citizen Services: Provided by County	Sheriff's Patrol, Communications
7. Maintenance:	Equipment Maintenance
8. Miscellaneous: Services	Ongoing with no established expiration; Blue Cross, CDS, Banking Service

Methods of Awarding Agreements


- | | |
|------------------------|---------------------|
| 1. RFP | 5. Limited Bid |
| 2. Competitive Bid | 6. Emergency |
| 3. Sole Source | 7. Other (Describe) |
| 4. Selection Committee | |



MEMORANDUM

DATE: August 8, 1995

TO: Erline Jones
Clerk of the Board of Supervisors

FROM: Gamini Rajapakse 
Project Engineer
Roads & Airports Department

Subject: Reschedule Award of Construction Contract
Seismic Retrofit and Widening of Sunnyvale O.H at Lawrence Expwy. ,
Federal Project No. DPC-0040(001) , STPLNZ-5937(019)
Bridge No. 37-C-198

Granite Construction Company of San Jose, 2nd. low bidder has submitted a bid protest on August 4, 1995 (attached). We request the project award to be reschedule from agenda date, August 15 to August 29, 1995, to respond to this protest.

Bids were opened on July 27, 1995 for the subject project. Six (6) bids were received, Lionsgate Corporation of Alamo, submitted the low bid. Granite Construction Company submitted the second low bid. Award of contract is scheduled to be August 15, 1995.

Please call me if you have any questions at 321-7144

Attachments

CC: w/o Attachment

CLF, RBP, JRR, MLG, TH
HLH, GWS, SJB - Construction
Eleanore Solarez - Equal Opportunity

w/ Attachment

Record Mgmt.

H-95-08-0010
PCA # C3475

FACSIMILE

DEPARTMENT OF TRANSPORTATION

District 4

LOCAL ASSISTANCE

111 Grand Avenue, Oakland

DATE: 7-27-95

408-755-0898

TO: FAX NUMBER _

Gamini Rajapakse

Name _____

Department _____

* Sunnyvale SPRR Project

Message:

As of 7-1-95, you will not need Caltrans
concurrence to award your contract to
the low bidder.

After the contract is awarded, we need
the attached info from you.

Thank you. Please call if you have any questions.

TOTAL PAGES INCLUDING COVER SHEET 3

FROM:

Bob

Robert Wu

Local Assistance Area Engineer

Santa Clara Co.

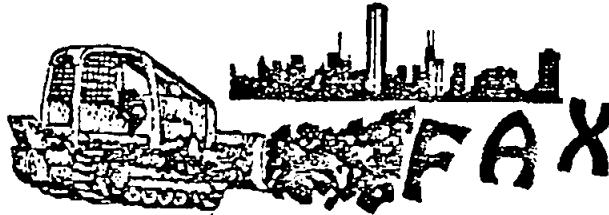
Tel: 510-286-5234

ATSS: 8-541-5234

FAX 510-286-5229

GRANITE CONSTRUCTION COMPANY

SAN JOSE



DATE: 8-4-95 PAGES 16

TO: Santa Clara Cty Board of Supervisors

ATTENTION: Clerk of This Board

FAX: 298-8460

FROM: ROD COOPER

SAN JOSE BRANCH

120 GRANITE ROCK WAY

SAN JOSE, CA 95136

PHONE: (408) 224-4124

FAX: (408) 224-4394

MESSAGE: Please Distribute To All members

August 4, 1995



County of Santa Clara
Roads and Airports Department
3331 North First Street
San Jose, CA 95134

Certified Mail No. Z 199 725 609
Faxed 8/4/95

Attn.: Gamini Rajapakse
Project Engineer

Subject: Seismic Retrofit and Widening of Sunnyvale O.H.
Lawrence Expressway Project
Federal Project Number: DPC-004(001) Demonstration Project
STPLNZ-5937(019) Seismic Retrofit Project

Gentlemen:

Granite Construction Company hereby protests the potential award of the above referenced project to Lionsgate Corporation. Granite Construction Company in good faith, complied with the requirements of the Standard Specifications in submitting our bid to the County. We have reason to believe that Lionsgate did not act in compliance with the Contract Specifications.

Lionsgate listed, on form "E", Certified DBE listing, that Klotz Engineering would furnish the structural steel. The dollar value used was \$257,300.00. This amount is for the total value of the structural steel. Klotz Engineering is not a class three fabricator, only a supplier, therefore only 20% of the \$257,300.00 can be utilized in the DBE participation. Further, Klotz Engineering is not in the day to day business of marketing and selling structural steel. It is the opinion of not only Granite Construction Company, but McGrath Steel who is our listed DBE certified erector and supplier of structural steel, that Klotz Engineering is no more than a shell in this case.

In addition, you should be advised that Lionsgate has been found non-responsible by Caltrans, please see attachment. This project has federal funds that are administered by Caltrans to the County. We believe it to be in the best interest of the County that these issues be investigated prior to award. Upon completion of your investigation we believe that the County will find that Granite Construction Company is the lowest responsible bidder and that the Contract should be

San Jose Branch
120 Granite Rock Way
San Jose, CA 95136
(408) 224-4124
FAX (408) 224-4394

BEFORE THE
DEPARTMENT OF TRANSPORTATION
STATE OF CALIFORNIA

In the Matter of the
Responsibility Hearing Re:

LIONSGATE CORPORATION

Contract No. 04-141904

OAH No. N-9406021

Respondent.

RECOMMENDED DECISION

On June 16, 17, and 22, 1994, in Sacramento, California, M. Amanda Behe, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Frederick Graebe, Counsel, Department of Transportation, represented the Department of Transportation.

Lionsgate Corporation was represented by Kenneth Barker, General Manager.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The State of California, Department of Transportation (hereinafter "CalTrans"), solicited bids for proposed Contract No. 04-141904 which concerns seismic retrofit work. The bids submitted for the proposed contract were opened by CalTrans on May 11, 1994, in Sacramento, California. Lionsgate Corporation (hereinafter "Lionsgate") submitted the lowest bid.

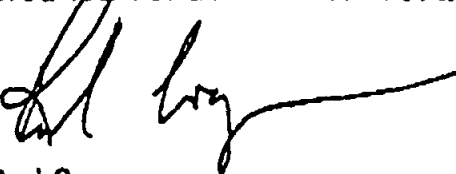
awarded to Granite. You must also review Bid Form 12 to see if Lionsgate acknowledged that they have been found non-responsible by Caltrans or others.

We request that you inform this office as to when this matter will go before the Board of Supervisors and allow Granite the time to explain our position if so required.

In closing we do not believe it to be in the best interest of the Tax Payer to award this project to Lionsgate Corporation. Equally as important, an award to Lionsgate would be unfair to the minority contracting community, as well as it frustrates the intent of the MBE/WBE requirements.

Sincerely,

GRANITE CONSTRUCTION COMPANY

A handwritten signature in black ink, appearing to read "Rod Cooper", with a long horizontal flourish extending to the right.

Rod Cooper
Branch Manager

Attachment: Lionsgate Decision (12 pages)

cc: Phyllis Perez, Clerk of the Board of Supervisors
Mike Honda, Chairman, County Supervisors
Jim Beal, County Supervisor
Ken Smith, Granite Corporate Counsel
Mark Boltano, Granite Vice-President
Rob Leslie, McInerney & Dillon

II

Lionsgate is described by Kenneth Barker, Lionsgate's General Manager, as a family corporation which employs his three sons. His wife is president of Lionsgate. Kenneth Barker is not a licensed civil engineer or a licensed engineer in any field. His son Paul Barker, who worked on various projects described herein, is not a licensed civil, traffic, or safety engineer.

III

By his letter of June 1, 1994, R.P. Weaver, CalTrans Interim Chief Deputy Director, advised Lionsgate of CalTrans' preliminary determination that Lionsgate is not a responsible bidder and that, therefore, the contract be awarded to the second lowest bidder. That letter described matters pertaining to Lionsgate's performance on Contract No. 10-435004, Contract No. 04-133284, and Contract No. 04-133074 in support of the preliminary determination.

In the same letter Lionsgate was advised that an opportunity to present information that the allegations concerning its performance were inaccurate would be provided. The matter was scheduled for hearing on June 9, 1994; that hearing date was rescheduled to June 16, 1994.

IV

By his letter of June 3, 1994, R.P. Weaver appointed Administrative Law Judge M. Amanda Behr to conduct a hearing to determine the responsibility of Lionsgate Corporation with regard to proposed CalTrans Contract No. 04-141904.

V

In the past five and one-half years CalTrans has let approximately 8,400 construction contracts. For each of those projects CalTrans prepared a bid document describing the work, advertised the project, and awarded the contract to the lowest bidder. The subject matter is the only preliminary determination that a bidder is not responsible in CalTrans' award of its last 8,400 construction contracts. The most recent hearing on such a determination occurred February 25, 1986, more than eight years ago.

The preliminary determination by the Interim Chief Deputy Director was based on information from CalTrans' Chief Engineer, the Division of Construction, and staff of District Offices. That information concerned the performance of Lionsgate on three recent/ current projects in the context of the performance of other contractors on more than five thousand contracts. CalTrans considered the number and type of disputes which occurred on the three listed projects, the nature and quantity of letters, faxes, and memoranda generated by Lionsgate,

Brian Boal, CalTrans Senior Bridge Engineer and a registered professional engineer, has supervised construction contracts of more than thirteen contractors valued up to \$35 million. His opinion that the administration of Contract No. 04-133284 was unusually burdensome is persuasive. He noted that:

"The constant barrage of letters with unsubstantiated claims, erroneous statements and memorializing of non-existent agreements requires an inordinate amount of personnel to attend to. The responsible contractors on our other contracts are paying the price for Mr. Barker's excessive demands on our time. Unlike Mr. Barker they are cooperative and conduct business on the basis of trust and mutual respect."

Brian Boal compared Lionsgate's performance with the work of other contractors on several other contracts ranging from contracts of similar size and scope to a major \$44 million project. He described the paperwork burden with the Lionsgate project as:

"Extremely high, completely unnecessary, counterproductive and unprecedented even on contracts much larger and more complex than this one. In the past week we received 24 letters, including 8 on June 7 and 7 on June 10. A completely irresponsible approach to construction. The combined paper output of all the contractors on all the projects under my supervision is far surpassed by Lionsgate on their single project. And again I point out that Lionsgate is doing almost no work on the project while these other jobs are doing hundreds of thousands of dollars worth of work."

Lionsgate refused to order steel in a timely manner for its performance of Contract No. 04-133284, and repeatedly represented that steel was not available due to the Northgate earthquake. Lionsgate failed to comply with Standard Specification 8-1.07 that shortages be documented to justify a time extension; and CalTrans determined that such a shortage did not exist. Concerned about the timely completion of the contract, CalTrans canvassed various steel suppliers and found that, in fact, steel supplies were available. To assist Lionsgate CalTrans provided Lionsgate with a list of the names and addresses of suppliers who could furnish the required materials. The testimony at hearing of Kenneth Barker that Lionsgate ordered steel supplies prior to the contract being signed is not credible, and contradicts his representations to CalTrans in a Progress Meeting held May 26, 1994. Lionsgate did not present any competent evidence reflecting the date of its alleged orders for such materials. In light of the voluminous documents presented in the lengthy subject hearing, Lionsgate's failure to present credible evidence of steel orders is telling. Lionsgate offered no competent, i.e. non-hearsay, evidence that the delay was caused by a dispute regarding whether steel pilings incorporating "recycled Toyotas" qualified under the "Buy

American" Act. Lionsgate's representations that steel was unavailable were false and did not justify delays in the project.

During the course of Lionsgate's performance on Contract No. 04-133284 Kenneth Barker misrepresented statements made by CalTrans staff and others, and wrote several letters misstating the content of meetings. For example, he misrepresented that one staff member had approved a waiver of the \$5,000 inspection fee required by Section 10-1.23, and when caught in that falsehood stated that another individual had approved the waiver. The second individual had not authorized the waiver or even discussed the topic with Kenneth Barker. Nonetheless, Kenneth Barker falsely represented in a letter to CalTrans [Lionsgate letter 131-11] that approval of the waiver was received.

Lionsgate issued an inordinate number of letters and memoranda in the course of Contract No. 04-133284. Gerald Ducey, CalTrans' Deputy Director for Construction, is familiar with comparable projects and the conduct of other contractors who perform construction projects for CalTrans. He persuasively testified that Lionsgate sent an "excessive" number of letters above and beyond what comparable projects would require. Mr. Ducey noted that it took an inordinate amount of the Resident Engineer's time to answer the numerous Lionsgate inquiries regarding work, supplies, etc. which delayed completion of the project. He noted further that Lionsgate is seeking additional compensation for such delays generated by its unnecessary correspondence.

On May 26, 1994 Lionsgate refused to supply a rollover three week progress schedule for Contract No. 04-133284 despite specific provisions of the contract which required Lionsgate to provide such a schedule when directed by the Resident Engineer. A schedule reflects the major items of work and the critical path to their completion. As of June 1, 1994, CalTrans was considering terminating the project for non-performance. Lionsgate did not provide a revised schedule for completion of the project until June 7, 1994 [Exhibit N]. The revised schedule was not created until after Lionsgate was notified of CalTrans' preliminary determination concerning the subject award due to Lionsgate's performance problems.

VIII.

Lionsgate entered into Contract No. 10-435004 with CalTrans for a construction project in Solano County generally at Cordelia on Route 80 and Route 680. During its performance on the contract Kenneth Barker, Lionsgate's General Manager, made verbal and written disparaging statements regarding CalTrans' Resident Engineer and Deputy District Director for Construction. In a series of letters to CalTrans in March and April 1994, Kenneth Barker alleged that CalTrans's staff was incompetent. In his letter of March 8, 1994, Kenneth Barker stated that the Resident Engineer "lacks both the experience and knowledge to

perform the job of Resident Engineer". Kenneth Barker alleged in his letter of March 30, 1994, that "the oversight process of the Resident Engineer by the Senior Engineer (Mr. Christy Philipp) and Others (sic), is dysfunctional". Kenneth Barker's missive of April 5, 1994 stated "the undersigned once again complains of the Resident Engineers's (sic) profound lack of experience and know how (sic)". The Resident Engineer on the project is a registered professional engineer.

In the course of its performance of Contract No. 10-435004 Lionsgate refused to file Notices of Potential Claim in the manner required by Sections 5-1.03 and 5-1.04 of that contract. As a consequence of Lionsgate's failure to comply with the contract terms, CalTrans did not have the opportunity to either mitigate or ascertain damages. In March 1994, Linn Ferguson, a retired Supervising Transportation Engineer, had various discussions with Kenneth Barker in an attempt to elicit the required Notice of Potential Claim forms. Kenneth Barker stated that the forms, which required certification under penalty of perjury pursuant to the California False Claims Act, were "unconstitutional" and that on the advice of two or three attorneys he did not have to comply with the contract requirements. At hearing Kenneth Barker acknowledged that although Lionsgate had numerous disputed claims and demands additional compensation from CalTrans it had not, as of the date of the subject hearing, submitted Notices of Potential Claim on Forms HC-11. His testimony that Lionsgate was not required to use such forms is not persuasive; their use is mandated by the express terms of the contract.

Linn Ferguson was brought in on the project in March 1994 to attempt to resolve various claims disputes between Lionsgate and CalTrans which had affected the progress of the project. Lionsgate submitted a demand for payment which lacked sufficient information regarding the work status for the Resident Engineer to determine whether funds should be released. The Resident Engineer directed Lionsgate to submit a revised progress schedule, and withheld the progress payment upon Lionsgate's refusal to submit that schedule. Pursuant to the contract Lionsgate was required to submit a progress schedule when directed to do so by the Resident Engineer. Linn Ferguson's testimony that Lionsgate is not a responsible bidder because of its refusal to comply with obvious contract requirements is persuasive.

Lionsgate demanded additional compensation for several items such as falsework drawings and calculations, shoring drawings and calculations, etc. which it was required to provide as part of its performance under the contract.

Lionsgate sent more than 125 letters to the Resident Engineer in less than five months, all of which required considerable amounts of his time to answer. Lionsgate repeated questions or concerns in sequential letters, although CalTrans had provided written answers to these questions or concerns. For

example, Lionsgate's letter of April 19, 1994, stated "Lionsgate again requests that the State approve the Shotcrete Mix Design, which was submitted to the State for approval on February 4, 1994". In fact by the date of that letter Lionsgate had received multiple telephone calls, a fax dated March 11, 1994, and three CalTrans letters stating that the shotcrete mix design had been approved [CalTrans Letters Nos. 14, 26, and 29]. Lionsgate similarly reiterated inquiries concerning casing radii, polystyrene, etc., which had been previously and repeatedly addressed by CalTrans in writing. Lionsgate offered no explanation for its apparent failure to read and/or understand CalTrans' written responses.

In his letter of April 21, 1994, Kenneth Barker stated:

"We are in receipt of a number of State letters that we find difficult to understand. Specifically: The lack of paragraphs and the combining of several issues in the same letter, (sic) make the letters almost unintelligible. This, combined with State opinion, (sic) which is devoid of any reference to the specific terms of the contract governing the issues allegedly under discussion, (sic) make the letters even more difficult to comprehend.

"Accordingly, if the State wishes a Lionsgate response, please set forth the issues in a logical, readable format, so that they can be readily understood."

(punctuation in original)

None of the CalTrans letters in the record "lack paragraphs"; most have multiple paragraphs. A person of Kenneth Barker's asserted education and experience can reasonably be expected to understand a letter which addresses more than one "issue". That a letter concerns "several issues" does not make it "almost unintelligible".

During Lionsgate's performance of Contract No. 10-435004 Kenneth Barker made numerous and extensive Public Records Act demands of CalTrans' staff. Kenneth Barker directed his demands to the Resident Engineer with whom he had disputes on Contract No. 10-435004, and the six supervisors in his chain of command. Kenneth Barker's four demands dated April 4 and April 11, 1994 sought massive amounts of daily, weekly and monthly reports on all constructions projects, correspondence and memoranda on all projects to and from seven CalTrans staff, all schedules and correspondence dating back to 1987 on all construction projects, etc. Kenneth Barker's letters also demanded that CalTrans produce those monumental amounts of documents within ten days. No evidence suggests that the requests for public records were related to or necessary for Lionsgate's performance of the contract.

At hearing Kenneth Barker repeatedly confused the Public Records Act, Government Code section 6250, et seq., with the federal Freedom of Information Act. He acknowledged that his Public Records Act demands were made because Lionsgate "was complaining" about CalTrans. Kenneth Barker testified that he made his Public Records Act demands to see other contractors' performance schedules. His testimony is not credible; the demands were not limited to obtaining samples of other contractors' schedule documents. Kenneth Barker's demands under the Public Records Act were clearly vexatious, punitive, and a violation of the contractual requirement of good faith and fair dealing.

Lionsgate had several significant safety problems on Contract No. 10-435004 including that work on the project was halted for lack of certification of its cranes. CalTrans demanded the certificates and Lionsgate was unable to produce current and valid certificates for its equipment. Although Kenneth Barker testified that the cranes had been certified on a yearly basis he presented no competent evidence of such certificates. In light of the numerous documents offered by Lionsgate, the absence of those certificates is telling.

IX

In the course of its performance of CalTrans contracts, Lionsgate was required to comply with CalTrans Standard Specification 5-1.01, which concerned the responsibility and authority of the project Engineer. Kenneth Barker, Lionsgate's General Manager, repeatedly refused to attempt to resolve disputes with assigned Resident Engineers as required by recent/current contracts.

Kenneth Barker, Lionsgate's General Manager, repeatedly "went over the head" of assigned project staff to senior CalTrans personnel by writing or calling senior staff directly. In consequence, intervention by senior CalTrans staff occurred resulting in unnecessary costs to CalTrans of time and personnel.

X

Kenneth Barker, Lionsgate's General Manager, testified to the need to expose the irresponsible waste of money, mismanagement, fraud, and incompetence of CalTrans. He described CalTrans as "an incompetent outfit"; that CalTrans is rife with "fraud", "impossibly incompetent mismanagement" and "massive disorganization"; and that "whatever level you go to" poor attitudes "are ingrained". In contrast, Kenneth Barker testified that he "has never met a contractor who is as well-qualified as us [Lionsgate]".

Kenneth Barker testified that the California Legislature should eliminate CalTrans and allow private businesses to perform CalTrans' responsibilities.

The testimony of Kenneth Barker, Lionsgate's General Manager, displays considerable personal animosity against CalTrans employees and imputes base motives to those employees. For example, he testified that a CalTrans Resident Engineer was unconcerned about safety and that "he didn't care if we [employees of Lionsgate and its subcontractors] all got killed". He testified at length that improper motives, mental illness, incompetence, inexperience, racial bias, etc., characterize various staff of CalTrans. Kenneth Barker testified that only "one in ten CalTrans employees is competent to perform the job they are assigned".

Lionsgate has permitted the rancor and enmity of its staff to affect its contract performance. The testimony of both Kenneth Barker and Paul Barker reflects a patent inability to conduct business in a professional manner, without resorting to maligning CalTrans staff. Disputes, problems, and claims attend any construction project; a responsible bidder can be assessed by the manner in which it addresses to such predicaments. Here, responses such as disparaging CalTrans staff, generating unwarranted correspondence of up to eight letters per day, formulating vexatious Public Records Act demands, etc., establish that Lionsgate elects to exacerbate rather than resolve such difficulties.

Lionsgate was the lowest bidder on the projects described above, and has had ample opportunity to demonstrate the factors which comprise a responsible contractor. Instead, Lionsgate's performance, briefly set forth above, displayed an intentional failure to comply with contract terms, a lack of capacity to complete projects in a timely and competent manner, and an absence of the trustworthiness essential to good faith and fair dealing. CalTrans is not required to continue to let contracts to such a bidder.

DETERMINATION OF ISSUES

I

The preponderance of the evidence establishes that on three recent/current projects Lionsgate has refused to comply with contract claims procedures and ignored other contract terms, including those pertaining to the authority of the Resident Engineer, progress schedules, etc., in a manner which has compromised the timely and proper performance of the contract.

II

The preponderance of the evidence establishes that Lionsgate elected to delay its performance of Contract No. 04-133284 by failing to timely order necessary steel supplies and failed to cooperate with efforts to resolve the problem, with the

result that the timely performance of the contract was compromised.

III

The preponderance of the evidence establishes that Lionsgate's numerous and extensive Public Records Act demands of CalTrans' staff were made to harass and punish CalTrans, and violated the contractual requirement of good faith and fair dealing.

IV

The preponderance of the evidence establishes that Lionsgate refused to submit progress schedules as required by its contracts with CalTrans, delaying timely completion of those contracts.

V

The preponderance of the evidence establishes that Lionsgate through Kenneth Barker, Lionsgate's General Manager, has routinely engaged in personal attacks upon the reputation, competence and integrity of CalTrans staff. Those actions by Lionsgate and Kenneth Barker, Lionsgate's General Manager, have been detrimental to the timely and cooperative completion of current/recent contracts. Those actions have further required the intervention of senior CalTrans personnel, the unnecessary expenditure of CalTrans time and resources, and have compromised the timely and proper performance of contracts.

VI

No evidence suggests that the conduct of Lionsgate and Kenneth Barker, Lionsgate's General Manager, will differ on the subject proposed contract from that displayed on the projects noted above. CalTrans is not required to contract with an apparent low bidder where a repetition of performance deficiencies, unwarranted and unnecessary delays and disputes, and failures to comply with contract requirements must be anticipated. Rather, CalTrans has an affirmative duty to contract with responsible bidders to assure the orderly and proper performance of construction projects.

The preponderance of evidence establishes that the delays and difficulties which have attended the three contracts discussed above were not minor or infrequent. CalTrans staff credibly testified that the number of disputes, and delays and excess costs attendant thereto, are unprecedented in CalTrans' history. Lionsgate's characterization of its history on those contracts as parallel or similar to the experience of other contractors of CalTrans is not credible.

The public policy purposes of competitive bidding, that the public receive the greatest benefit for their money (Boydston

Y. NAPA Sanitation Dist. (1990) 222 Cal.App.3d 1362, 272 Cal.Rptr. 458 is not served by contracting with an entity whose bid is apparently the lowest, but whose performance under the contract will necessitate unwarranted additional costs and will result in inexcusable performance delays. Thus the subject determination concerns the lowest responsible bidder, rather than the lowest bidder.

Here, Lionsgate repeatedly disregarded and violated express contractual terms, failed to complete projects in a timely and competent manner, harassed CalTrans with punitive Public Records Act demands, and violated the requirements of good faith and fair dealing. Judged alone Lionsgate is not a responsible bidder. Judged against the hundreds of other contractors who have received more than five thousand CalTrans contracts Lionsgate is not a responsible bidder.

ORDER

I

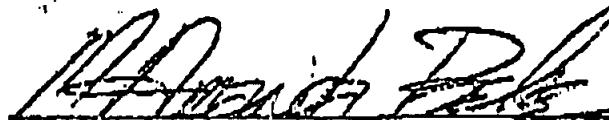
The determination of the Department of Transportation that Lionsgate is not a responsible bidder is sustained.

II

The determination of the Department of Transportation to award Contract No. 04-141904 to the second lowest remaining bidder is sustained.

Date:

JUNE 28, 1994



M. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION

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

- 1.) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- 2.) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- 3.) does not have a proposed debarment pending; and
- 4.) 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.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed this 27 day of July, 19 95

Keith J. Burke
Signature of Bidder

Note: 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.



ELECTRICAL CONTRACTORS

1195 NORTH 5TH. STREET, SAN JOSE, CA 95112

TELEPHONE 408-286-8625 FAX 408-286-0953

DATE 8-4-95TO: SANTA CLARA Cty. FAX NO. 408-955-0898
Roads & Airports DEPT.GAMINI Rajapakse Project Engineer

NO. OF DOCUMENTS SENT (INCL COVER SHEET) _____

PLEASE BE ADVISED THAT THIS FIRM A CAL TRANS CERTIFIED WBE WAS
NOT CONTACTED BY LIONGATE, SO I MUST ASSUME THAT THEY DID NOT DO
A GOOD FAITH EFFORT. ALSO THEY DID NOT APPEAR ON THE LIST OF
BIDDERS - SO WHERE DID THEY GET THE BID DOCUMENTS ??

IN ANY CASE DUE TO THE ABOVE THIS FIRM, LISTED BY THE LEGITIMATE
OTHER GENERAL CONTRACTORS THIS FIRM WAS UNABLE TO BID TO LIONGATE.

SIGNED

State Contractors License No. 490450 *Geraldine J. Harris, Sec. Treas.*



Mission City Rebar, Inc. OF SANTA CLARA

REINFORCING STEEL PRODUCTS

P.O. Box 2853, Mission Sta.
Santa Clara, California 95055
CSL #273978

95 AUG 9 P12:32

August 07, 1995

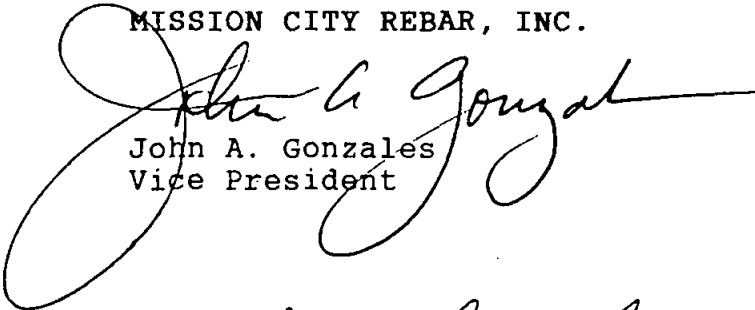
THE SANTA CLARA COUNTY BOARD OF SUPERVISORS
70 WEST HEDDING
SAN JOSE, CA 95110
FAX (408)298-8460

Attention: Clerk of the Board, for distribution to all members.

As a tax paying business located in Santa Clara County for the past 23 years, we wish to protest the award of the Seismic retrofit/widening of Sunnyvale O.H. at Lawrence Expressway to Lionsgate Corporation. Mission City Rebar, Inc, was listed by the responsible second bidder, Granite Construction Company. We did not bid to Lionsgate Corporation because they failed to solicit us as a local DBE/MBE/WBE subcontractor. We feel this may demonstrate a lack of a good faith effort, in refusing to offer us, a local minority firm, a chance to participate in this project.

Thank You,

MISSION CITY REBAR, INC.


John A. Gonzales
Vice President

CC: County Counsel
Roads Airports Construction

REC'd 8/14/95
GR

SIMPSON, AHERNE & GARRITY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

THE ATRIUM

1900 SOUTH NORFOLK, SUITE 260

SAN MATEO, CALIFORNIA 94403

TELEPHONE (415) 358-6990

FACSIMILE (415) 358-6991

PAUL A. AHERNE
PAUL V. SIMPSON
RONALD F. GARRITY
LAURA E. INNES
A. ROBERT ROSIN

THERESE DA LUZ
JEANNE E. HONG
KENNETH M. HURLEY
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MICHAEL L. MAU
ANNE C. STROMBERG

SAN FRANCISCO OFFICE
ONE CALIFORNIA ST.
22ND FLOOR
SAN FRANCISCO, CA 94111
(415) 678-2828
FAX (415) 678-2830

August 16, 1995

Mr. Gamini Rajapakse
Project Engineer
County of Santa Clara
3333 North First Street
San Jose, CA 95134

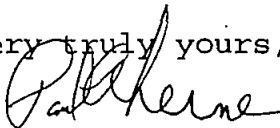
Re: Lionsgate Corporation - Granite Construction

Dear Mr. Rajapakse:

As I advised you in my telephone conversation, this office represents Lionsgate Corporation. We are advised that Granite Construction has filed a protest regarding the recent project on which Lionsgate was the apparent low bidder. Obviously, Lionsgate objects to the award of the project to anyone other than Lionsgate and please construe this as our request for a hearing on the matter if the owner intends to award the project to anyone other than Lionsgate.

I would appreciate it if you would provide me any correspondence which you have received from Granite so that we may review it and provide you Lionsgate's position.

Very truly yours,



Paul A. Aherne

PAA:lmr

cc: Lionsgate Corporation
Attn: Mr. Kenneth Barker

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August 17, 1995

Mr. Gamini Rajapakse
Project Engineer
County of Santa Clara
3333 North First Street
San Jose, CA 95134

Re: Lawrence Expressway HOV Demonstration Project
Seismic Retrofit and Widening of Sunnyvale OH on
Lawrence Expressway

Dear Mr. Rajapakse:

I am in receipt of your letter dated August 16, 1995 and Granite Construction's letter dated August 4, 1995, and will respond on behalf of Lionsgate Corporation.

1. DBE Listing - Klotz Engineering. Klotz Engineering is a Cal Trans certified DBE supplier and subcontractor of structural steel. Klotz Engineering is supplying the steel to Lionsgate for the project. Klotz Engineering is in the day to day business of marketing and selling steel as one of their primary sources of business. Assuming that they are considered a supplier, Lionsgate is entitled to a 65% allocation for the material to be supplied to Klotz Engineering for the sum of \$167,245.00. Using this amount, Lionsgate still exceeds the DBE participation for the project. Even using the 20% (which I am unclear as to why Granite believes 20% is the formula to be used), Lionsgate satisfies the goals for the project.

2. Bid Form 12. Even more troublesome is Granite's apparent innuendo that Lionsgate did not correctly complete Bid Form 12. The bid form is very specific in terms of finding of ineligibility, debarment, or suspension within the past three years by a federal agency. There has not been a finding by any federal agency relating to Lionsgate in the last three years. Additionally, there has not been a debarment of Lionsgate in the last three years. Lionsgate was found to be nonresponsible on one project with Cal Trans, that matter is currently being contested in the United States Federal District Court in Sacramento, Case No. S-95-517 DFL GGH. Until there is a final

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For this reason, Lionsgate is committed to obtaining this project and fully intends to pursue the matter if it is wrongfully denied the project.

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Paul A. Aherne

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cc: Lionsgate Corporation
Attn: Mr. Kenneth Barker
Ms. Phyllis Perez, Clerk of the Board of Supervisors
Mr. Mike Honda, Chairman, County Supervisors
Mr. Jim Beal, County Supervisor
Rob Leslie, Esq., McInerney & Dillon

208808_1

COUNTY OF SANTA CLARA

ROADS AND AIRPORTS DEPARTMENT

CHRISTINE FISCHER - DIRECTOR

GAMINI RAJAPAKSE - PROJECT ENGINEER

SUMMARY OF BID PROPOSAL FOR :

SEISMIC RETROFIT AND WIDENING OF SUNNYVALE O.H/ LAWRENCE EXPWY.

BRIDGE # 37C-198

FEDERAL PROJECT # DPC-0040(001), STPLNZ-5937(019)

BID OPEN: 07/27/95

AWARD : 08/29/95

AWARD TO:

			1		2		3		4		5		6							
			ENGINEERS ESTIMATE		LIONSGATE CORPORATION		GRANITE CONSTRUCTION		RGW CONSTRUCTION INC.		SERRANO & CONE INC.		WILLIAM P. YOUNG INC.		WEST COAST BRIDGE INC.		AVERAGE	CHANGE		
ITEM NO.	ITEM CODE	ITEM	EST QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	Granite Average
					\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
1	66001	SUPPLEMENTAL WORK	1	LS	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	0.00%
2	70010	PROGRESS SCHEDULE (CRITICAL PATH)	1	LS	5,000.00	5,000.00	16,100.00	16,100.00	7,200.00	7,200.00	50,000.00	50,000.00	5,000.00	5,000.00	11,000.00	11,000.00	10,000.00	10,000.00	16,550.00	56.50%
3	72008	EXCAVATION SHORING	1	LS	50,000.00	50,000.00	50,000.00	50,000.00	33,635.00	33,635.00	15,000.00	15,000.00	30,000.00	30,000.00	30,000.00	30,000.00	60,000.00	60,000.00	36,439.17	7.70%
4	(S) 120090	CONSTRUCTION AREA SIGNS	1	LS	5,000.00	5,000.00	10,000.00	10,000.00	1,700.00	1,700.00	5,000.00	5,000.00	5,000.00	5,000.00	2,000.00	2,000.00	2,000.00	2,000.00	4,283.33	60.31%
5	(S) 120100	TRAFFIC CONTROL SYSTEM	1	LS	15,000.00	15,000.00	35,000.00	35,000.00	13,740.00	13,740.00	11,500.00	11,500.00	30,000.00	30,000.00	20,000.00	20,000.00	50,000.00	50,000.00	26,706.67	48.55%
6	120151	TEMPORARY TRAFFIC STRIPE (TAPE)	6000	LF	3.00	18,000.00	2.00	12,000.00	1.65	9,900.00	1.50	9,000.00	1.50	9,000.00	2.00	12,000.00	2.00	12,000.00	1.78	7.04%
7	120152	TEMPORARY TRAFFIC MARKING (TAPE)	300	SF	2.00	600.00	10.00	3,000.00	10.50	3,150.00	10.00	3,000.00	6.00	1,800.00	5.00	1,500.00	10.00	3,000.00	8.58	-22.33%
8	120154	TEMPORARY PAVEMENT MARKER	100	EA	5.00	500.00	5.00	500.00	3.15	315.00	3.00	300.00	5.00	500.00	5.00	500.00	20.00	2,000.00	6.86	54.07%
9	129000	TEMPORARY RAILING (TYPE K)	2360	LF	20.00	47,200.00	20.00	47,200.00	12.80	30,208.00	7.00	16,520.00	10.00	23,600.00	15.00	35,400.00	20.00	47,200.00	14.13	9.43%
10	129100	TEMPORARY CRASH CUSHION MODULE	48	EA	250.00	12,000.00	300.00	14,400.00	230.00	11,040.00	130.00	6,240.00	300.00	14,400.00	200.00	9,600.00	300.00	14,400.00	243.33	5.48%
11	150306	REPAIR SPALLED CONCRETE	50	SF	50.00	2,500.00	50.00	2,500.00	150.00	7,500.00	250.00	12,500.00	50.00	2,500.00	25.00	1,250.00	100.00	5,000.00	104.17	-44.00%
12	157561	BRIDGE REMOVAL (PORTIONS)	1	LS	90,000.00	90,000.00	20,000.00	20,000.00	95,000.00	95,000.00	70,000.00	70,000.00	50,000.00	50,000.00	125,000.00	125,000.00	70,000.00	70,000.00	71,666.67	-32.56%
13	160101	CLEAR AND GRUB	1	LS	2,000.00	2,000.00	5,000.00	5,000.00	3,710.00	3,710.00	12,000.00	12,000.00	10,000.00	10,000.00	1,000.00	1,000.00	1,000.00	1,000.00	5,451.67	31.95%
14	(F) 192003	STRUCTURE EXCAVATION (BRIDGE)	260	CY	75.00	19,500.00	40.00	10,400.00	55.00	14,300.00	100.00	26,000.00	70.00	18,200.00	60.00	15,600.00	200.00	52,000.00	87.50	37.14%
15	(F) 193003	STRUCTURE BACKFILL (BRIDGE)	100	CY	70.00	7,000.00	100.00	10,000.00	125.00	12,500.00	150.00	15,000.00	70.00	7,000.00	250.00	25,000.00	100.00	10,000.00	132.50	5.66%
16	390124	ASPHALT CONCRETE (TYPE B, 1/2" MAX. GR.)	85	TON	40.00	3,400.00	100.00	8,500.00	82.00	6,970.00	75.00	6,375.00	140.00	11,900.00	150.00	12,750.00	200.00	17,000.00	124.50	34.14%
17	(S) 490609	60" DIA. C.L.D.H PILE	160	LF	250.00	40,000.00	500.00	80,000.00	380.00	60,800.00	250.00	40,000.00	500.00	80,000.00	350.00	56,000.00	300.00	48,000.00	380.00	0.00%
18	490713	FURNISH PILING (CLASS 70)	2140	LF	15.00	32,100.00	20.00	42,800.00	8.00	17,120.00	15.00	32,100.00	12.00	25,680.00	10.00	21,400.00	10.00	21,400.00	12.50	36.00%
19	(S) 490714	DRIVE PILE (CLASS 70)	30	EA	1,600.00	48,000.00	1,500.00	45,000.00	1,575.00	47,250.00	2,000.00	60,000.00	3,500.00	105,000.00	1,500.00	45,000.00	1,700.00	51,000.00	1,962.50	19.75%
20	(F) 510051	STRUCTURAL CONCRETE (BRIDGE FOOTING)	91	CY	370.00	33,670.00	300.00	27,300.00	300.00	27,300.00	550.00	50,050.00	450.00	40,950.00	260.00	23,660.00	300.00	27,300.00	360.00	16.67%
21	(F) 510053	STRUCTURAL CONCRETE (BRIDGE)	510	CY	400.00	204,000.00	600.00	306,000.00	500.00	255,000.00	550.00	280,500.00	690.00	351,900.00	830.00	423,300.00	650.00	331,500.00	636.67	21.47%
22	(F) 510086	STRUCTURAL CONCRETE (APPROACH SLAB TYPE N)	33	CY	300.00	9,900.00	500.00	16,500.00	500.00	16,500.00	550.00	18,150.00	350.00	11,550.00	1,400.00	46,200.00	600.00	19,800.00	650.00	23.08%
23	511106	DRILL AND BOND DOWEL	1420	LF	20.00	28,400.00	20.00	28,400.00	28.00	39,760.00	20.00	28,400.00	20.00	28,400.00	20.00	28,400.00	20.00	28,400.00	21.33	-31.25%
24	511109	DRILL AND BOND DOWELS (EPOXY CARTRIDGE)	85	LF	30.00	2,550.00	40.00	3,400.00	29.57	2,513.45	40.00	3,400.00	30.00	2,550.00	50.00	4,250.00	30.00	2,550.00	36.60	19.20%
25	(S) 519102	JOINT SEAL (TYPE AL)	400	LF	24.00	9,600.00	40.00	16,000.00	27.60	11,040.00	22.00	8,800.00	10.00	4,000.00	30.00	12,000.00	40.00	16,000.00	28.27	2.36%
26	(S)(F) 520102	BAR REINFORCING STEEL (BRIDGE)	161000	LB	0.76	122,360.00	0.80	128,800.00	0.75	120,750.00	0.70	112,700.00	0.60	96,600.00	0.65	104,650.00	1.00	161,000.00	0.75	0.00%
27	(S)(F) 550203	FURNISH STRUCTURAL STEEL (BRIDGE)	280000	LB	2.00	560,000.00	1.00	280,000.00	1.20	336,000.00	1.10	308,000.00	1.20	336,000.00	1.10	308,000.00	1.40	392,000.00	1.17	-2.86%
28	(F) 550204	ERECT STRUCTURAL STEEL (BRIDGE)	280000	LB	1.77	495,600.00	0.15	42,000.00	0.50	140,000.00	0.50	140,000.00	0.48	134,400.00	0.50	140,000.00	0.80	224,000.00	0.49	-2.39%
29	(S) 590115	CLEANING AND PAINTING STRUCTURAL STEEL	1	LS	40,000.00	40,000.00	30,000.00	30,000.00	61,000.00	61,000.00	29,000.00	29,000.00	30,000.00	30,000.00	60,000.00	60,000.00	70,000.00	70,000.00	46,666.67	-30.71%
30	(F) 721810	SLOPE PAVING (CONCRETE)	100	CY	350.00	35,000.00	400.00	40,000.00	280.00	28,000.00	450.00	45,000.00	400.00	40,000.00	400.00	40,000.00	300.00	30,000.00	371.67	24.66%
31	731505	MINOR CONCRETE (CURB & SIDEWALK)	20	CY	250.00	5,000.00	500.00	10,000.00	790.00	15,800.00	300.00	6,000.00	250.00	5,000.00	400.00	8,000.00	500.00	10,000.00	456.67	-72.99%
32	(S)(F) 750501	MISCELLANEOUS METAL (BRIDGE)	1920	LB	2.00	3,840.00	5.00	9,600.00	4.20	8,064.00	15.00	28,800.00	5.00	9,600.00	25.00	48,000.00	6.00	11,520.00	10.03	58.14%
33	832003	METAL BEAM GUARD RAILING (WOOD POST)	160	LF	40.00	6,400.00	20.00	3,200.00	25.00	4,000.00	25.00	4,000.00	25.00	4,000.00	25.00	4,000.00	40.00	6,400.00	26.67	6.25%
34	833032	CHAIN LINK RAILING (TYPE 7)	800	LF	20.00	16,000.00	20.00	16,000.00	30.00	24,000.00	30.00	24,000.00	35.00							

B/S CHAIR T/D CHAIR BD OF SUPV CLERK

MCR

Mission City Rebar, Inc. ^{RCV'D}
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OF SANTA CLARA

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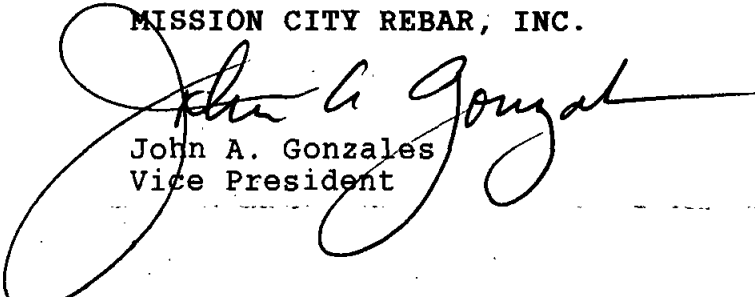
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John A. Gonzales
Vice President

CC: County Counsel
Roads & Airports Construction

E/S CHAIR ~~X~~ T/D CHAIR _____ BD. OF SUPV. _____ CLERK _____

800
REC'D
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SIMPSON, AHERNE & GARRITY
CO. OF SANTA CLARA
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THE ATRIUM

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August 17, 1995

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Districts I II III IV V rec'd

SEP 19 1995

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Attn: Mr. Kenneth Barker
Ms. Phyllis Perez, Clerk of the Board of Supervisors
Mr. Mike Honda, Chairman, County Supervisors
Mr. Jim Beal, County Supervisor
Rob Leslie, Esq., McInerney & Dillon



ELECTRICAL CONTRACTORS

1195 NORTH 5TH. STREET, SAN JOSE, CA 95112

TELEPHONE 408-286-8625 FAX 408-286-0953

DATE 8-4-95TO: SANTA CLARA Cty. FAX NO. 408-955-0898
Roads & Airports DEPT.GAMINI Rajapaksi Project Engineer

NO. OF DOCUMENTS SENT (INCL COVER SHEET) _____

PLEASE BE ADVISED THAT THIS FIRM A CAL TRANS CERTIFIED WBE WAS
NOT CONTACTED BY LIONGATE, SO I MUST ASSUME THAT THEY DID NOT DO
A GOOD FAITH EFFORT. ALSO THEY DID NOT APPEAR ON THE LIST OF
BIDDERS - SO WHERE DID THEY GET THE BID DOCUMENTS ??

IN ANY CASE DUE TO THE ABOVE THIS FIRM, LISTED BY THE LEGITIMATE
OTHER GENERAL CONTRACTORS THIS FIRM WAS UNABLE TO BID TO LIONGATE.

SIGNED

State Contractors License No. 490430 *Geraldine J. Harris, Sec. Treas.*

G/S CHAIR T/D CHAIR ED OF SUPV CLERK *Attn*



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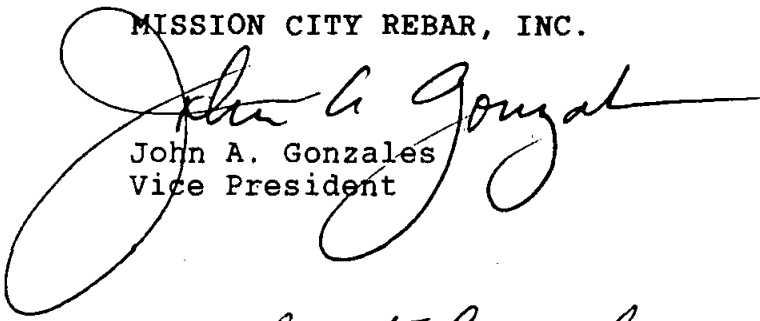
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Vice President

CC: County Counsel
Road & Airports Construction

REC'd 8/14/95

GR

SIMPSON, AHERNE & GARRITY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

THE ATRIUM

1800 SOUTH NORFOLK, SUITE 260

SAN MATEO, CALIFORNIA 94403

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SAN FRANCISCO OFFICE

ONE CALIFORNIA ST.
22ND FLOOR
SAN FRANCISCO, CA 94111
(415) 678-2828
FAX (415) 678-2830

August 16, 1995

Mr. Gamini Rajapakse
Project Engineer
County of Santa Clara
3333 North First Street
San Jose, CA 95134

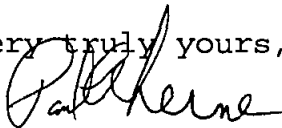
Re: Lionsgate Corporation - Granite Construction

Dear Mr. Rajapakse:

As I advised you in my telephone conversation, this office represents Lionsgate Corporation. We are advised that Granite Construction has filed a protest regarding the recent project on which Lionsgate was the apparent low bidder. Obviously, Lionsgate objects to the award of the project to anyone other than Lionsgate and please construe this as our request for a hearing on the matter if the owner intends to award the project to anyone other than Lionsgate.

I would appreciate it if you would provide me any correspondence which you have received from Granite so that we may review it and provide you Lionsgate's position.

Very truly yours,



Paul A. Aherne

PAA:lmr

cc: Lionsgate Corporation
Attn: Mr. Kenneth Barker

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H95080046

SIMPSON, AHERNE & GARRITY

PROFESSIONAL CORPORATION

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August 17, 1995

Mr. Gamini Rajapakse
Project Engineer
County of Santa Clara
3333 North First Street
San Jose, CA 95134

Re: Lawrence Expressway HOV Demonstration Project
Seismic Retrofit and Widening of Sunnyvale OH on
Lawrence Expressway

Dear Mr. Rajapakse:

I am in receipt of your letter dated August 16, 1995 and Granite Construction's letter dated August 4, 1995, and will respond on behalf of Lionsgate Corporation.

1. DBE Listing - Klotz Engineering. Klotz Engineering is a Cal Trans certified DBE supplier and subcontractor of structural steel. Klotz Engineering is supplying the steel to Lionsgate for the project. Klotz Engineering is in the day to day business of marketing and selling steel as one of their primary sources of business. Assuming that they are considered a supplier, Lionsgate is entitled to a 65% allocation for the material to be supplied to Klotz Engineering for the sum of \$167,245.00. Using this amount, Lionsgate still exceeds the DBE participation for the project. Even using the 20% (which I am unclear as to why Granite believes 20% is the formula to be used), Lionsgate satisfies the goals for the project.

2. Bid Form 12. Even more troublesome is Granite's apparent innuendo that Lionsgate did not correctly complete Bid Form 12. The bid form is very specific in terms of finding of ineligibility, debarment, or suspension within the past three years by a federal agency. There has not been a finding by any federal agency relating to Lionsgate in the last three years. Additionally, there has not been a debarment of Lionsgate in the last three years. Lionsgate was found to be nonresponsible on one project with Cal Trans, that matter is currently being contested in the United States Federal District Court in Sacramento, Case No. S-95-517 DFL.GGH. Until there is a final

August 17, 1995
Page 2

adjudication of that matter, the administrative findings are inappropriate to be used as evidence in any proceeding.

3. Granite Construction Company. Ironically, McGrath Steel who is listed by Granite Construction is not a Category 3 Shop Facility and will be purchasing its steel from out of state. Granite is using the very process which it is complaining of regarding Lionsgate.

Granite has been found to be nonresponsive in other projects in which they were the apparent low bidder, and it is not our intent or desire to clutter these issues with making accusations, but it is safe to say that each project has to be evaluated independently to determine if the bid is responsive and the bidder responsible.

For this reason, Lionsgate is committed to obtaining this project and fully intends to pursue the matter if it is wrongfully denied the project.

Very truly yours,



Paul A. Aherne

PAA:lmr

cc: Lionsgate Corporation
Attn: Mr. Kenneth Barker
Ms. Phyllis Perez, Clerk of the Board of Supervisors
Mr. Mike Honda, Chairman, County Supervisors
Mr. Jim Beal, County Supervisor
Rob Leslie, Esq., McInerney & Dillon

208808_1

COUNTY OF SANTA CLARA			SUMMARY OF BID PROPOSAL FOR :						SEISMIC RETROFIT AND WIDENING OF SUNNYVALE O.H/ LAWRENCE EXPWY.										BID OPEN: 07/27/95	
ROADS AND AIRPORTS DEPARTMENT									BRIDGE # 37C-198										AWARD : 08/29/95	
CHRISTINE FISCHER - DIRECTOR									FEDERAL PROJECT # DPC-0040(001), STPLNZ-5937(019)										AWARD TO:	
GAMINI RAJAPAKSE - PROJECT ENGINEER																				
			ENGINEERS ESTIMATE		LIONSGATE CORPORATION		GRANITE CONSTRUCTION		RGW CONSTRUCTION INC.		SERRANO & CONE INC.		WILLIAM P. YOUNG INC.		WEST COAST BRIDGE INC.		AVERAGE	CHANGE		
ITEM NO.	ITEM CODE	ITEM	EST QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	Granite Average
					\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
1	66001	SUPPLEMENTAL WORK	1	LS	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	0.00%
2	70010	PROGRESS SCHEDULE (CRITICAL PATH)	1	LS	5,000.00	5,000.00	16,100.00	16,100.00	7,200.00	7,200.00	50,000.00	50,000.00	5,000.00	5,000.00	11,000.00	11,000.00	10,000.00	10,000.00	16,550.00	56.50%
3	72008	EXCAVATION SHORING	1	LS	50,000.00	50,000.00	50,000.00	50,000.00	33,635.00	33,635.00	15,000.00	15,000.00	30,000.00	30,000.00	30,000.00	30,000.00	60,000.00	60,000.00	36,439.17	7.70%
4	(S) 120090	CONSTRUCTION AREA SIGNS	1	LS	5,000.00	5,000.00	10,000.00	10,000.00	1,700.00	1,700.00	5,000.00	5,000.00	5,000.00	5,000.00	2,000.00	2,000.00	2,000.00	2,000.00	4,283.33	60.31%
5	(S) 120100	TRAFFIC CONTROL SYSTEM	1	LS	15,000.00	15,000.00	35,000.00	35,000.00	13,740.00	13,740.00	11,500.00	11,500.00	30,000.00	30,000.00	20,000.00	20,000.00	50,000.00	50,000.00	26,706.67	48.55%
6	120151	TEMPORARY TRAFFIC STRIPE (TAPE)	6000	LF	3.00	18,000.00	2.00	12,000.00	1.65	9,900.00	1.50	9,000.00	1.50	9,000.00	2.00	12,000.00	2.00	12,000.00	1.78	7.04%
7	120152	TEMPORARY TRAFFIC MARKING (TAPE)	300	SF	2.00	600.00	10.00	3,000.00	10.50	3,150.00	10.00	3,000.00	6.00	1,800.00	5.00	1,500.00	10.00	3,000.00	8.58	-22.33%
8	120154	TEMPORARY PAVEMENT MARKER	100	EA	5.00	500.00	5.00	500.00	3.15	315.00	3.00	300.00	5.00	500.00	5.00	500.00	20.00	2,000.00	6.86	54.07%
9	129000	TEMPORARY RAILING (TYPE K)	2360	LF	20.00	47,200.00	20.00	47,200.00	12.80	30,208.00	7.00	16,520.00	10.00	23,600.00	15.00	35,400.00	20.00	47,200.00	14.13	9.43%
10	129100	TEMPORARY CRASH CUSHION MODULE	48	EA	250.00	12,000.00	300.00	14,400.00	230.00	11,040.00	130.00	6,240.00	300.00	14,400.00	200.00	9,600.00	300.00	14,400.00	243.33	5.48%
11	150306	REPAIR SPALLED CONCRETE	50	SF	50.00	2,500.00	50.00	2,500.00	150.00	7,500.00	250.00	12,500.00	50.00	2,500.00	25.00	1,250.00	100.00	5,000.00	104.17	-44.00%
12	157561	BRIDGE REMOVAL (PORTIONS)	1	LS	90,000.00	90,000.00	20,000.00	20,000.00	95,000.00	95,000.00	70,000.00	70,000.00	50,000.00	50,000.00	125,000.00	125,000.00	70,000.00	70,000.00	71,666.67	-32.56%
13	160101	CLEAR AND GRUB	1	LS	2,000.00	2,000.00	5,000.00	5,000.00	3,710.00	3,710.00	12,000.00	12,000.00	10,000.00	10,000.00	1,000.00	1,000.00	1,000.00	1,000.00	5,451.67	31.95%
14	(F) 192003	STRUCTURE EXCAVATION (BRIDGE)	260	CY	75.00	19,500.00	40.00	10,400.00	55.00	14,300.00	100.00	26,000.00	70.00	18,200.00	60.00	15,600.00	200.00	52,000.00	87.50	37.14%
15	(F) 193003	STRUCTURE BACKFILL (BRIDGE)	100	CY	70.00	7,000.00	100.00	10,000.00	125.00	12,500.00	150.00	15,000.00	70.00	7,000.00	250.00	25,000.00	100.00	10,000.00	132.50	5.66%
16	390124	ASPHALT CONCRETE (TYPE B, 1/2" MAX. GR.)	85	TON	40.00	3,400.00	100.00	8,500.00	82.00	6,970.00	75.00	6,375.00	140.00	11,900.00	150.00	12,750.00	200.00	17,000.00	124.50	34.14%
17	(S) 490609	60" DIA. C.I.D.H PILE	160	LF	250.00	40,000.00	500.00	80,000.00	380.00	60,800.00	250.00	40,000.00	500.00	80,000.00	350.00	56,000.00	300.00	48,000.00	380.00	0.00%
18	490713	FURNISH PILING (CLASS 70)	2140	LF	15.00	32,100.00	20.00	42,800.00	8.00	17,120.00	15.00	32,100.00	12.00	25,680.00	10.00	21,400.00	10.00	21,400.00	12.50	36.00%
19	(S) 490714	DRIVE PILE (CLASS 70)	30	EA	1,600.00	48,000.00	1,500.00	45,000.00	1,575.00	47,250.00	2,000.00	60,000.00	3,500.00	105,000.00	1,500.00	45,000.00	1,700.00	51,000.00	1,962.50	19.75%
20	(F) 510051	STRUCTURAL CONCRETE (BRIDGE FOOTING)	91	CY	370.00	33,670.00	300.00	27,300.00	300.00	27,300.00	550.00	50,050.00	450.00	40,950.00	260.00	23,660.00	300.00	27,300.00	360.00	16.67%
21	(F) 510053	STRUCTURAL CONCRETE (BRIDGE)	510	CY	400.00	204,000.00	600.00	306,000.00	500.00	255,000.00	550.00	280,500.00	690.00	351,900.00	830.00	423,300.00	650.00	331,500.00	636.67	21.47%
22	(F) 510086	STRUCTURAL CONCRETE (APPROACH SLAB TYPE N)	33	CY	300.00	9,900.00	500.00	16,500.00	500.00	16,500.00	550.00	18,150.00	350.00	11,550.00	1,400.00	46,200.00	600.00	19,800.00	650.00	23.08%
23	511106	DRILL AND BOND DOWEL	1420	LF	20.00	28,400.00	20.00	28,400.00	28.00	39,760.00	20.00	28,400.00	20.00	28,400.00	20.00	28,400.00	20.00	28,400.00	21.33	-31.25%
24	511109	DRILL AND BOND DOWELS (EPOXY CARTRIDGE)	85	LF	30.00	2,550.00	40.00	3,400.00	29.57	2,513.45	40.00	3,400.00	30.00	2,550.00	50.00	4,250.00	30.00	2,550.00	36.60	19.20%
25	(S) 519102	JOINT SEAL (TYPE AL)	400	LF	24.00	9,600.00	40.00	16,000.00	27.60	11,040.00	22.00	8,800.00	10.00	4,000.00	30.00	12,000.00	40.00	16,000.00	28.27	2.36%
26	(S)(F) 520102	BAR REINFORCING STEEL (BRIDGE)	161000	LB	0.76	122,360.00	0.80	128,800.00	0.75	120,750.00	0.70	112,700.00	0.60	96,600.00	0.65	104,650.00	1.00	161,000.00	0.75	0.00%
27	(S)(F) 550203	FURNISH STRUCTURAL STEEL (BRIDGE)	280000	LB	2.00	560,000.00	1.00	280,000.00	1.20	336,000.00	1.10	308,000.00	1.20	336,000.00	1.10	308,000.00	1.40	392,000.00	1.17	-2.86%
28	(F) 550204	ERECT STRUCTURAL STEEL (BRIDGE)	280000	LB	1.77	495,600.00	0.15	42,000.00	0.50	140,000.00	0.50	140,000.00	0.48	134,400.00	0.50	140,000.00	0.80	224,000.00	0.49	-2.39%
29	(S) 590115	CLEANING AND PAINTING STRUCTURAL STEEL	1	LS	40,000.00	40,000.00	30,000.00	30,000.00	61,000.00	61,000.00	29,000.00	29,000.00	30,000.00	30,000.00	60,000.00	60,000.00	70,000.00	70,000.00	46,666.67	-30.71%
30	(F) 721810	SLOPE PAVING (CONCRETE)	100	CY	350.00	35,000.00	400.00	40,000.00	280.00	28,000.00	450.00	45,000.00	400.00	40,000.00	400.00	40,000.00	300.00	30,000.00	371.67	24.66%
31	731505	MINOR CONCRETE (CURB & SIDEWALK)	20	CY	250.00	5,000.00	500.00	10,000.00	790.00	15,800.00	300.00	6,000.00	250.00	5,000.00	400.00	8,000.00	500.00	10,000.00	456.67	-72.99%
32	(S)(F) 750501	MISCELLANEOUS METAL (BRIDGE)	1920	LB	2.00	3,840.00	5.00	9,600.00	4.20	8,064.00	15.00	28,800.00	5.00	9,600.00	25.00	48,000.00	6.00	11,520.00	10.03	58.14%
33	832003	METAL BEAM GUARD RAILING (WOOD POST)	160	LF	40.00	6,400.00	20.00	3,200.00	25.00	4,000.00	25.00	4,000.00	25.00	4,000.00	25.00	4,000.00	40.00	6,400.00	26.67	6.25%
34	833032	CHAIN LINK RAILING (TYPE 7)	800	LF	20.00	16,000.00	20.00	16,000.00	30.00	24,000.00										

August 4, 1995



County of Santa Clara
Roads and Airports Department
3331 North First Street
San Jose, CA 95134

Certified Mail No. Z 199 725 609
Faxed 8/4/95.

Attn.: Gamini Rajapakse
Project Engineer

Subject: Seismic Retrofit and Widening of Sunnyvale O.H.
Lawrence Expressway Project
Federal Project Number: DPC -004(001) Demonstration Project
STPLNZ-5937(019) Seismic Retrofit Project

Gentlemen:

Granite Construction Company hereby protests the potential award of the above referenced project to Lionsgate Corporation. Granite Construction Company in good faith, complied with the requirements of the Standard Specifications in submitting our bid to the County. We have reason to believe that Lionsgate did not act in compliance with the Contract Specifications.

Lionsgate listed, on form "E", Certified DBE listing, that Klotz Engineering would furnish the structural steel. The dollar value used was \$257,300.00. This amount is for the total value of the structural steel. Klotz Engineering is not a class three fabricator, only a supplier, therefore only 20% of the \$257,300.00 can be utilized in the DBE participation. Further, Klotz Engineering is not in the day to day business of marketing and selling structural steel. It is the opinion of not only Granite Construction Company, but McGrath Steel who is our listed DBE certified erector and supplier of structural steel, that Klotz Engineering is no more than a shell in this case.

In addition, you should be advised that Lionsgate has been found non-responsible by Caltrans, please see attachment. This project has federal funds that are administered by Caltrans to the County. We believe it to be in the best interest of the County that these issues be investigated prior to award. Upon completion of your investigation we believe that the County will find that Granite Construction Company is the lowest responsible bidder and that the Contract should be

San Jose Branch
120 Granite Rock Way
San Jose, CA 95136
(408) 224-4124
FAX (408) 224-4394

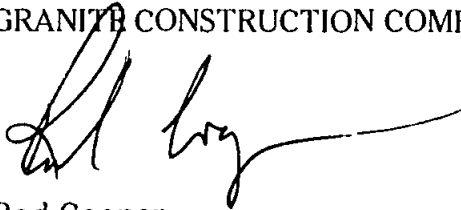
awarded to Granite. You must also review Bid Form 12 to see if Lionsgate acknowledged that they have been found non-responsible by Caltrans or others.

We request that you inform this office as to when this matter will go before the Board of Supervisors and allow Granite the time to explain our position if so required.

In closing we do not believe it to be in the best interest of the Tax Payer to award this project to Lionsgate Corporation. Equally as important, an award to Lionsgate would be unfair to the minority contracting community, as well as it frustrates the intent of the MBE/WBE requirements.

Sincerely,

GRANITE CONSTRUCTION COMPANY

A handwritten signature in black ink, appearing to read 'Rod Cooper', with a long horizontal flourish extending to the right.

Rod Cooper
Branch Manager

Attachment: Lionsgate Decision (12 pages)

cc: Phyllis Perez, Clerk of the Board of Supervisors
Mike Honda, Chairman, County Supervisors
Jim Beal, County Supervisor
Ken Smith, Granite Corporate Counsel
Mark Boitano, Granite Vice-President
Rob Leslie, McInerney & Dillon

BEFORE THE
DEPARTMENT OF TRANSPORTATION
STATE OF CALIFORNIA

In the Matter of the
Responsibility Hearing Re:

LIONSGATE CORPORATION

Contract No. 04-141904

Respondent.

OAH No. N-9406021

RECOMMENDED DECISION

On June 16, 17, and 22, 1994, in Sacramento, California, M. Amanda Behe, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Frederick Grasbe, Counsel, Department of Transportation, represented the Department of Transportation.

Lionsgate Corporation was represented by Kenneth Barker, General Manager.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The State of California, Department of Transportation (hereinafter "CalTrans"), solicited bids for proposed Contract No. 04-141904 which concerns seismic retrofit work. The bids submitted for the proposed contract were opened by CalTrans on May 11, 1994, in Sacramento, California. Lionsgate Corporation (hereinafter "Lionsgate") submitted the lowest bid.

II

Lionsgate is described by Kenneth Barker, Lionsgate's General Manager, as a family corporation which employs his three sons. His wife is president of Lionsgate. Kenneth Barker is not a licensed civil engineer or a licensed engineer in any field. His son Paul Barker, who worked on various projects described herein, is not a licensed civil, traffic, or safety engineer.

III

By his letter of June 1, 1994, R.P. Weaver, CalTrans Interim Chief Deputy Director, advised Lionsgate of CalTrans' preliminary determination that Lionsgate is not a responsible bidder and that, therefore, the contract be awarded to the second lowest bidder. That letter described matters pertaining to Lionsgate's performance on Contract No. 10-435004, Contract No. 04-133284, and Contract No. 04-133074 in support of the preliminary determination.

In the same letter Lionsgate was advised that an opportunity to present information that the allegations concerning its performance were inaccurate would be provided. The matter was scheduled for hearing on June 9, 1994; that hearing date was rescheduled to June 16, 1994.

IV

By his letter of June 3, 1994, R.P. Weaver appointed Administrative Law Judge M. Amanda Behe to conduct a hearing to determine the responsibility of Lionsgate Corporation with regard to proposed CalTrans Contract No. 04-141904.

V

In the past five and one-half years CalTrans has let approximately 5,400 construction contracts. For each of those projects CalTrans prepared a bid document describing the work, advertised the project, and awarded the contract to the lowest bidder. The subject matter is the only preliminary determination that a bidder is not responsible in CalTrans' award of its last 5,400 construction contracts. The most recent hearing on such a determination occurred February 25, 1986, more than eight years ago.

The preliminary determination by the Interim Chief Deputy Director was based on information from CalTrans' Chief Engineer, the Division of Construction, and staff of District Offices. That information concerned the performance of Lionsgate on three recent/ current projects in the context of the performance of other contractors on more than five thousand contracts. CalTrans considered the number and type of disputes which occurred on the three listed projects, the nature and quantity of letters, faxes, and memoranda generated by Lionsgate,

and efforts to resolve project disputes, including associated costs to CalTrans in time and resources.

Phyllis Griffin, Division of Construction, compared the number of Lionsgate's letters, faxes, and memoranda on the three contracts to those received by CalTrans on comparable projects. She persuasively testified that Lionsgate sent an inordinate number of such communications, and repeated disputes or questions in letter after letter when an answer or response had previously been provided.

Performance of the three projects was hindered by the number and nature of written communications from Lionsgate, and the repetition of issues after a written answer had been provided. Ms. Griffin's conclusion that Lionsgate demonstrated an inability to competently resolve the problems and disputes which typically arise on construction projects is persuasive. The Lionsgate projects have been inordinately costly and time-consuming, and display a refusal of Lionsgate to resolve problems at the field level without voluminous, repetitive and unnecessary paperwork.

VI

Lionsgate entered into Contract No. 04-133074 with CalTrans for a seismic retrofit project in Berkeley. During the course of the project Kenneth Barker, Lionsgate's General Manager, made disparaging statements regarding the Resident Engineer and other CalTrans staff assigned to the project. For example, Kenneth Barker referred to the project Resident Engineer and Senior Engineer as incompetent and serving in title only. At hearing Kenneth Barker stated that the project Resident Engineer was an "amateur" who had "only three days training". In fact, that Resident Engineer is a registered civil engineer who has had contract administration experience and training with CalTrans since his employment in 1988. In numerous letters Kenneth Barker referred to CalTrans as incompetent, and asserted "continuous erroneous administration of the contract, (sic) by the State" [Lionsgate Letter 127-88] and "the State's unreasonable and irrational interference" [Lionsgate Letter 127-79].

The number and nature of letters, memoranda, and faxes generated by Lionsgate imposed a significant administrative burden on CalTrans far in excess of projects of comparable scope and complexity. Although the project had a construction budget of only \$123,000 per month, Lionsgate generated six pieces of correspondence per week. Resident Engineer David Franco noted that Lionsgate was uncooperative in his efforts to resolve problems in the field. A full-time Resident Engineer was required to respond to the "steady stream of correspondence" from Lionsgate, when typically two or three such projects would be assigned to a Resident Engineer. David Franco noted that:

"Lionsgate tended to submit letters in groups of three to eight at a time, requiring the State to answer in

the same manner, when it tried to be timely with its replies. As immediate replies to these barrages of correspondence was rarely possible for all of the received letters, follow up letters or faxes were often received within 24 to 48 hours complaining about the State's untimely response to specific letters. These follow up letters were often carbon copied to higher levels of the State's administration as examples of the contract administrator's inability to perform his duties."

Lionsgate is demanding extra compensation for alleged delays related to the volume of correspondence it initiated.

On its Proposed Final Estimate Lionsgate listed thirty-eight exceptions which it asserted will be perfected into claims after review by its attorney and accountant. Contract No. 04-133074 incorporates specific requirements and time limits for claims by contractors. Despite the clear terms of the contract Lionsgate requested permission to submit late claims; that request was refused by CalTrans. Despite that decision, on May 1, 1994 Lionsgate demanded a 120-day extension to submit additional claims. Lionsgate demanded claims administration procedures which were contrary to contract terms.

Lionsgate's assertion that CalTrans endangered its employees and subcontractors by failing to notify it of lead-contaminated soil is not supported by the evidence. No contaminated soil was present on the site of project No. 04-133074, and Lionsgate was advised of that matter by the Resident Engineer's letter of September 30, 1993. The contaminated soil was on another site, a highway-widening project performed by another contractor, O.C. Jones. That project was shut down due to the lack of an off-haul dumpsite for that soil.

VII

Lionsgate entered into Contract No. 04-133284 with CalTrans for a seismic retrofit project in Contra Costa County at Pleasant Hill, Concord, and other locations for \$2.5 million. Kenneth Barker, Lionsgate's General Manager, criticized the CalTrans staff assigned to the project as incompetent and inexperienced. For example, Kenneth Barker referred to the CalTrans Resident Engineer as "stupid", "inexperienced", and "foolish". At hearing Kenneth Barker testified that the Resident Engineer was "immature" and "amateurish".

During the course of its contract performance Lionsgate refused to comply with Contract Specification 4-1.01, which concerned the authority of the Resident Engineer on the project. In addition, Lionsgate repeatedly attempted to go over the head of the Resident Engineer to District Management with the result that contract administration required additional expenditures of the time and resources of senior CalTrans staff.

Brian Boal, CalTrans Senior Bridge Engineer and a registered professional engineer, has supervised construction contracts of more than thirteen contractors valued up to \$35 million. His opinion that the administration of Contract No. 04-133284 was unusually burdensome is persuasive. He noted that:

"The constant barrage of letters with unsubstantiated claims, erroneous statements and memorializing of non-existent agreements requires an inordinate amount of personnel to attend to. The responsible contractors on our other contracts are paying the price for Mr. Barker's excessive demands on our time. Unlike Mr. Barker they are cooperative and conduct business on the basis of trust and mutual respect."

Brian Boal compared Lionsgate's performance with the work of other contractors on several other contracts ranging from contracts of similar size and scope to a major \$44 million project. He described the paperwork burden with the Lionsgate project as:

"Extremely high, completely unnecessary, counterproductive and unprecedented even on contracts much larger and more complex than this one. In the past week we received 24 letters, including 8 on June 7 and 7 on June 10. A completely irresponsible approach to construction. The combined paper output of all the contractors on all the projects under my supervision is far surpassed by Lionsgate on their single project. And again I point out that Lionsgate is doing almost no work on the project while these other jobs are doing hundreds of thousands of dollars worth of work."

Lionsgate refused to order steel in a timely manner for its performance of Contract No. 04-133284, and repeatedly represented that steel was not available due to the Northgate earthquake. Lionsgate failed to comply with Standard Specification 8-1.07 that shortages be documented to justify a time extension; and CalTrans determined that such a shortage did not exist. Concerned about the timely completion of the contract, CalTrans canvassed various steel suppliers and found that, in fact, steel supplies were available. To assist Lionsgate CalTrans provided Lionsgate with a list of the names and addresses of suppliers who could furnish the required materials. The testimony at hearing of Kenneth Barker that Lionsgate ordered steel supplies prior to the contract being signed is not credible, and contradicts his representations to CalTrans in a Progress Meeting held May 26, 1994. Lionsgate did not present any competent evidence reflecting the date of its alleged orders for such materials. In light of the voluminous documents presented in the lengthy subject hearing, Lionsgate's failure to present credible evidence of steel orders is telling. Lionsgate offered no competent, i.e. non-hearsay, evidence that the delay was caused by a dispute regarding whether steel pilings incorporating "recycled Toyotas" qualified under the "Buy

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American" Act. Lionsgate's representations that steel was unavailable were false and did not justify delays in the project.

During the course of Lionsgate's performance on Contract No. 04-133284 Kenneth Barker misrepresented statements made by CalTrans staff and others, and wrote several letters misstating the content of meetings. For example, he misrepresented that one staff member had approved a waiver of the \$5,000 inspection fee required by Section 10-1.23, and when caught in that falsehood stated that another individual had approved the waiver. The second individual had not authorized the waiver or even discussed the topic with Kenneth Barker. Nonetheless, Kenneth Barker falsely represented in a letter to CalTrans [Lionsgate letter 131-11] that approval of the waiver was received.

Lionsgate issued an inordinate number of letters and memoranda in the course of Contract No. 04-133284. Gerald Ducey, CalTrans' Deputy Director for Construction, is familiar with comparable projects and the conduct of other contractors who perform construction projects for CalTrans. He persuasively testified that Lionsgate sent an "excessive" number of letters above and beyond what comparable projects would require. Mr. Ducey noted that it took an inordinate amount of the Resident Engineer's time to answer the numerous Lionsgate inquiries regarding work, supplies, etc. which delayed completion of the project. He noted further that Lionsgate is seeking additional compensation for such delays generated by its unnecessary correspondence.

On May 26, 1994 Lionsgate refused to supply a rollover three week progress schedule for Contract No. 04-133284 despite specific provisions of the contract which required Lionsgate to provide such a schedule when directed by the Resident Engineer. A schedule reflects the major items of work and the critical path to their completion. As of June 1, 1994, CalTrans was considering terminating the project for non-performance. Lionsgate did not provide a revised schedule for completion of the project until June 7, 1994 [Exhibit N]. The revised schedule was not created until after Lionsgate was notified of CalTrans' preliminary determination concerning the subject award due to Lionsgate's performance problems.

VIII.

Lionsgate entered into Contract No. 10-435004 with CalTrans for a construction project in Solano County generally at Cordelia on Route 80 and Route 680. During its performance on the contract Kenneth Barker, Lionsgate's General Manager, made verbal and written disparaging statements regarding CalTrans' Resident Engineer and Deputy District Director for Construction. In a series of letters to CalTrans in March and April 1994, Kenneth Barker alleged that CalTrans's staff was incompetent. In his letter of March 8, 1994, Kenneth Barker stated that the Resident Engineer "lacks both the experience and knowledge to

perform the job of Resident Engineer". Kenneth Barker alleged in his letter of March 30, 1994, that "the oversight process of the Resident Engineer by the Senior Engineer (Mr. Christy Philipp) and Others (sic), is dysfunctional". Kenneth Barker's missive of April 5, 1994 stated "the undersigned once again complains of the Resident Engineers's (sic) profound lack of experience and know how (sic)". The Resident Engineer on the project is a registered professional engineer.

In the course of its performance of Contract No. 10-435004 Lionsgate refused to file Notices of Potential Claim in the manner required by Sections 5-1.03 and 5-1.04 of that contract. As a consequence of Lionsgate's failure to comply with the contract terms, CalTrans did not have the opportunity to either mitigate or ascertain damages. In March 1994, Linn Ferguson, a retired Supervising Transportation Engineer, had various discussions with Kenneth Barker in an attempt to elicit the required Notice of Potential Claim forms. Kenneth Barker stated that the forms, which required certification under penalty of perjury pursuant to the California False Claims Act, were "unconstitutional" and that on the advice of two or three attorneys he did not have to comply with the contract requirements. At hearing Kenneth Barker acknowledged that although Lionsgate had numerous disputed claims and demands additional compensation from CalTrans it had not, as of the date of the subject hearing, submitted Notices of Potential Claim on Forms HC-11. His testimony that Lionsgate was not required to use such forms is not persuasive; their use is mandated by the express terms of the contract.

Linn Ferguson was brought in on the project in March 1994 to attempt to resolve various claims disputes between Lionsgate and CalTrans which had affected the progress of the project. Lionsgate submitted a demand for payment which lacked sufficient information regarding the work status for the Resident Engineer to determine whether funds should be released. The Resident Engineer directed Lionsgate to submit a revised progress schedule, and withheld the progress payment upon Lionsgate's refusal to submit that schedule. Pursuant to the contract Lionsgate was required to submit a progress schedule when directed to do so by the Resident Engineer. Linn Ferguson's testimony that Lionsgate is not a responsible bidder because of its refusal to comply with obvious contract requirements is persuasive.

Lionsgate demanded additional compensation for several items such as falsework drawings and calculations, shoring drawings and calculations, etc. which it was required to provide as part of its performance under the contract.

Lionsgate sent more than 125 letters to the Resident Engineer in less than five months, all of which required considerable amounts of his time to answer. Lionsgate repeated questions or concerns in sequential letters, although CalTrans had provided written answers to those questions or concerns. For

example, Lionsgate's letter of April 19, 1994, stated "Lionsgate again requests that the State approve the Shotcrete Mix Design, which was submitted to the State for approval on February 4, 1994". In fact by the date of that letter Lionsgate had received multiple telephone calls, a fax dated March 11, 1994, and three CalTrans letters stating that the shotcrete mix design had been approved [CalTrans Letters Nos. 14, 26, and 29]. Lionsgate similarly reiterated inquiries concerning casing radii, polystyrene, etc., which had been previously and repeatedly addressed by CalTrans in writing. Lionsgate offered no explanation for its apparent failure to read and/or understand CalTrans' written responses.

In his letter of April 21, 1994, Kenneth Barker stated:

"We are in receipt of a number of State letters that we find difficult to understand. Specifically: The lack of paragraphs and the combining of several issues in the same letter, (sic) make the letters almost unintelligible. This, combined with State opinion, (sic) which is devoid of any reference to the specific terms of the contract governing the issues allegedly under discussion, (sic) make the letters even more difficult to comprehend.

"Accordingly, if the State wishes a Lionsgate response, please set forth the issues in a logical, readable format, so that they can be readily understood."

(punctuation in original)

None of the CalTrans letters in the record "lack paragraphs"; most have multiple paragraphs. A person of Kenneth Barker's asserted education and experience can reasonably be expected to understand a letter which addresses more than one "issue". That a letter concerns "several issues" does not make it "almost unintelligible".

During Lionsgate's performance of Contract No. 10-435004 Kenneth Barker made numerous and extensive Public Records Act demands of CalTrans' staff. Kenneth Barker directed his demands to the Resident Engineer with whom he had disputes on Contract No. 10-435004, and the six supervisors in his chain of command. Kenneth Barker's four demands dated April 4 and April 11, 1994 sought massive amounts of daily, weekly and monthly reports on all constructions projects, correspondence and memoranda on all projects to and from seven CalTrans staff, all schedules and correspondence dating back to 1987 on all construction projects, etc. Kenneth Barker's letters also demanded that CalTrans produce those monumental amounts of documents within ten days. No evidence suggests that the requests for public records were related to or necessary for Lionsgate's performance of the contract.

At hearing Kenneth Barker repeatedly confused the Public Records Act, Government Code section 6250, et seq, with the federal Freedom of Information Act. He acknowledged that his Public Records Act demands were made because Lionsgate "was complaining" about CalTrans. Kenneth Barker testified that he made his Public Records Act demands to see other contractors' performance schedules. His testimony is not credible; the demands were not limited to obtaining samples of other contractors' schedule documents. Kenneth Barker's demands under the Public Records Act were clearly vexatious, punitive, and a violation of the contractual requirement of good faith and fair dealing.

Lionsgate had several significant safety problems on Contract No. 10-435004 including that work on the project was halted for lack of certification of its cranes. CalTrans demanded the certificates and Lionsgate was unable to produce current and valid certificates for its equipment. Although Kenneth Barker testified that the cranes had been certified on a yearly basis he presented no competent evidence of such certificates. In light of the numerous documents offered by Lionsgate, the absence of those certificates is telling.

IX

In the course of its performance of CalTrans contracts, Lionsgate was required to comply with CalTrans Standard Specification 5-1.01, which concerned the responsibility and authority of the project Engineer. Kenneth Barker, Lionsgate's General Manager, repeatedly refused to attempt to resolve disputes with assigned Resident Engineers as required by recent/current contracts.

Kenneth Barker, Lionsgate's General Manager, repeatedly "went over the head" of assigned project staff to senior CalTrans personnel by writing or calling senior staff directly. In consequence, intervention by senior CalTrans staff occurred resulting in unnecessary costs to CalTrans of time and personnel.

X

Kenneth Barker, Lionsgate's General Manager, testified to the need to expose the irresponsible waste of money, mismanagement, fraud, and incompetence of CalTrans. He described CalTrans as "an incompetent outfit"; that CalTrans is rife with "fraud", "impossibly incompetent mismanagement" and "massive disorganization"; and that "whatever level you go to" poor attitudes "are ingrained". In contrast, Kenneth Barker testified that he "has never met a contractor who is as well-qualified as us [Lionsgate]".

Kenneth Barker testified that the California Legislature should eliminate CalTrans and allow private businesses to perform CalTrans' responsibilities.

The testimony of Kenneth Barker, Lionsgate's General Manager, displays considerable personal animosity against CalTrans employees and imputes base motives to those employees. For example, he testified that a CalTrans Resident Engineer was unconcerned about safety and that "he didn't care if we [employees of Lionsgate and its subcontractors] all got killed". He testified at length that improper motives, mental illness, incompetence, inexperience, racial bias, etc., characterize various staff of CalTrans. Kenneth Barker testified that only "one in ten CalTrans employees is competent to perform the job they are assigned".

Lionsgate has permitted the rancor and enmity of its staff to affect its contract performance. The testimony of both Kenneth Barker and Paul Barker reflects a patent inability to conduct business in a professional manner, without resorting to maligning CalTrans staff. Disputes, problems, and claims attend any construction project; a responsible bidder can be assessed by the manner in which it addresses to such predicaments. Here, responses such as disparaging CalTrans staff, generating unwarranted correspondence of up to eight letters per day, formulating vexatious Public Records Act demands, etc., establish that Lionsgate elects to exacerbate rather than resolve such difficulties.

Lionsgate was the lowest bidder on the projects described above, and has had ample opportunity to demonstrate the factors which comprise a responsible contractor. Instead, Lionsgate's performance, briefly set forth above, displayed an intentional failure to comply with contract terms, a lack of capacity to complete projects in a timely and competent manner, and an absence of the trustworthiness essential to good faith and fair dealing. CalTrans is not required to continue to let contracts to such a bidder.

DETERMINATION OF ISSUES

I

The preponderance of the evidence establishes that on three recent/current projects Lionsgate has refused to comply with contract claims procedures and ignored other contract terms, including those pertaining to the authority of the Resident Engineer, progress schedules, etc., in a manner which has compromised the timely and proper performance of the contract.

II

The preponderance of the evidence establishes that Lionsgate elected to delay its performance of Contract No. 04-133284 by failing to timely order necessary steel supplies and failed to cooperate with efforts to resolve the problem, with the

result that the timely performance of the contract was compromised.

III

The preponderance of the evidence establishes that Lionsgate's numerous and extensive Public Records Act demands of CalTrans' staff were made to harass and punish CalTrans, and violated the contractual requirement of good faith and fair dealing.

IV

The preponderance of the evidence establishes that Lionsgate refused to submit progress schedules as required by its contracts with CalTrans, delaying timely completion of those contracts.

V

The preponderance of the evidence establishes that Lionsgate through Kenneth Barker, Lionsgate's General Manager, has routinely engaged in personal attacks upon the reputation, competence and integrity of CalTrans staff. Those actions by Lionsgate and Kenneth Barker, Lionsgate's General Manager, have been detrimental to the timely and cooperative completion of current/recent contracts. Those actions have further required the intervention of senior CalTrans personnel, the unnecessary expenditure of CalTrans time and resources, and have compromised the timely and proper performance of contracts.

VI

No evidence suggests that the conduct of Lionsgate and Kenneth Barker, Lionsgate's General Manager, will differ on the subject proposed contract from that displayed on the projects noted above. CalTrans is not required to contract with an apparent low bidder where a repetition of performance deficiencies, unwarranted and unnecessary delays and disputes, and failures to comply with contract requirements must be anticipated. Rather, CalTrans has an affirmative duty to contract with responsible bidders to assure the orderly and proper performance of construction projects.

The preponderance of evidence establishes that the delays and difficulties which have attended the three contracts discussed above were not minor or infrequent. CalTrans staff credibly testified that the number of disputes, and delays and excess costs attendant thereto, are unprecedented in CalTrans' history. Lionsgate's characterization of its history on those contracts as parallel or similar to the experience of other contractors of CalTrans is not credible.

The public policy purposes of competitive bidding, that the public receive the greatest benefit for their money (Boydston

Y. Napa Sanitation Dist. (1990) 222 Cal.App.3d 1362, 272 Cal.Rptr. 458 is not served by contracting with an entity whose bid is apparently the lowest, but whose performance under the contract will necessitate unwarranted additional costs and will result in inexcusable performance delays. Thus the subject determination concerns the lowest responsible bidder, rather the lowest bidder.

Here, Lionsgate repeatedly disregarded and violated express contractual terms, failed to complete projects in a timely and competent manner, harassed CalTrans with punitive Public Records Act demands, and violated the requirements of good faith and fair dealing. Judged alone Lionsgate is not a responsible bidder. Judged against the hundreds of other contractors who have received more than five thousand CalTrans contracts Lionsgate is not a responsible bidder.

ORDER

I

The determination of the Department of Transportation that Lionsgate is not a responsible bidder is sustained.

II

The determination of the Department of Transportation to award Contract No. 04-141904 to the second lowest remaining bidder is sustained.

Date:

JUNE 28, 1994



M. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION

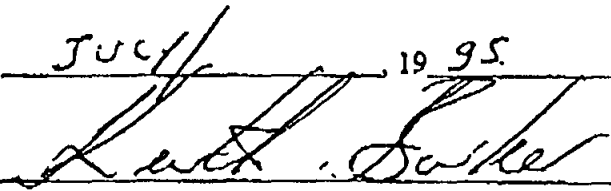
The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, manager:

- 1.) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- 2.) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- 3.) does not have a proposed debarment pending; and
- 4.) 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.

I declare under penalty of perjury that the foregoing information is true and correct.

Executed this 27 day of July, 19 95


 Signature of Bidder

Note: 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.

1 Paul A. Aherne, Esq. (Bar No. 106887)
Linda R. Beck, Esq. (Bar No. 136138)
2 CARR, McCLELLAN, INGERSOLL, THOMPSON & HORN
Professional Corporation
3 216 Park Road
P.O. Box 513
4 Burlingame, California 94011-0513
Telephone: (415) 342-9600

JUL -5 PM 3:23
LEONARDI #1

5 Attorneys for Petitioner/Plaintiff,
6 LIONSGATE CORPORATION

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SACRAMENTO

378623

11	LIONSGATE CORPORATION, a)	No.
12	California corporation,)	
13	Petitioner/ Plaintiff,)	PETITION AND COMPLAINT FOR WRIT OF ADMINISTRATIVE MANDAMUS (CCP \$1094.5); MANDAMUS (CCP \$1085); DAMAGES (CCP \$1095); DECLARATORY RELIEF; INJUNCTIVE RELIEF
14	vs.)	
15	DIRECTOR OF THE STATE OF)	
16	CALIFORNIA DEPARTMENT OF)	
17	TRANSPORTATION, and DOES 1)	
18	through 50, inclusive,)	
19	Respondent/ Defendant.)	

20 Petitioner/plaintiff Lionsgate Corporation ("Lionsgate")
21 petitions this Court for a writ of mandate under Code of Civil
22 Procedure Sections 1085 and/or 1094.5, directed to Respondent
23 Director of the State of California Department of Transportation,
24 and also seeks damages incidental to the writ under Code of Civil
25 Procedures Section 1095, and by this verified petition alleges as
26 follows:

27 1. Petitioner/plaintiff Lionsgate Corporation is, and at
28 all times herein mentioned was, a corporation organized and

Enclosure
Shirley

1 existing under the laws of the State of California and licensed
2 as a general engineering contractor in the State of California.
3 Lionsgate is, and at all times herein mentioned was, engaged in
4 the business of general engineering construction contracting in
5 this state and in particular on public works contracts for the
6 State of California, Department of Transportation.

7 2. At all times mentioned in this petition and complaint,
8 respondent Director of the Department of Transportation for the
9 State of California (the "Director") was responsible for
10 administering the award of contracts by the Department of
11 Transportation for the State of California ("CalTrans").

12 3. Defendants/respondents Does 1 through 50 are named
13 herein under fictitious names because their true names and
14 capacities are presently unknown to plaintiff. When their true
15 names and capacities are determined, Lionsgate will amend this
16 complaint/petition to show such true names and capacities.
17 Lionsgate is informed and believes and on that basis alleges that
18 Does 1 through 50 and each of them were responsible in some
19 manner for the events and happenings set forth in this pleading
20 and caused and are responsible for the damages proximately caused
21 thereby or are otherwise liable therefore.

22 4. CalTrans solicited bids for the proposed contract
23 No. 04-141904 (the "Contract") for seismic retrofit work in
24 Pleasanton. The proposal incorporated by reference CalTrans'
25 Standard Specifications (July 1992), including section 3-1.01,
26 which states in part:

27 The right is reserved to reject any and all proposals.

28 The award of the contract, if it be awarded, will be to

1 the lowest responsible bidder whose proposal complies
2 with all the requirements prescribed (emphasis added).

3 5. CalTrans opened the bids on or about May 11, 1994 in
4 Sacramento, California. Lionsgate's bid was lowest.

5 6. By letter dated June 1, 1994, the Director, acting
6 through R.P. Weaver, Interim Chief Deputy Director of CalTrans,
7 informed Lionsgate of the preliminary decision to reject
8 Lionsgate's bid on the grounds that Lionsgate was not a
9 responsible bidder, and to award the contract to the second low
10 bidder. This letter stated that Lionsgate would have the
11 opportunity to respond to the Director's allegations at a
12 hearing. The hearing was set for June 16, 1994.

13 7. By letter dated June 3, 1994, again through Mr. Weaver,
14 the Director appointed M. Amanda Behe as the administrative law
15 judge to conduct a hearing to determine the responsibility of
16 Lionsgate Corporation with regard to the Contract.

17 8. Hearings were held before Judge Behe on June 16, 17 and
18 22, 1994 at the CalTrans office in Sacramento. CalTrans appeared
19 through its attorney, Frederick Graebe and other CalTrans
20 personnel. Lionsgate appeared through Kenneth Barker, its
21 general manager, and through Paul Barker.

22 9. On June 28, 1994 Judge Behe signed an order sustaining
23 the Director's determination that Lionsgate is not a responsible
24 bidder and decision to award the contract to the second lowest
25 bidder. A true and correct copy of the judge's order and
26 findings of fact is attached hereto as Exhibit A. Mr. Weaver's
27 letter dated June 29, 1994 transmitting the order and confirming
28 the preliminary determination of Lionsgate's responsibility as

1 final is attached hereto as Exhibit B.

2 10. Respondent's decision and order are subject to review
3 under Code of Civil Procedure §§1094.5 and 1085 for the following
4 reasons:

5 (a) Respondent proceeded without and in excess of its
6 jurisdiction. Lionsgate received several of those
7 after the events on which the Director has based its
8 erroneous determination that Lionsgate is not a
9 responsible bidder. The Director lacked the authority
10 to reverse that decision and is estopped and has waived
11 any claim that Lionsgate is not responsible.

12 (b) As to the apparent bidder, Lionsgate has a vested,
13 fundamental regret to the contract. Respondent failed
14 to grant Lionsgate a fair hearing before rendering his
15 final decision depriving Lionsgate due process in that:

16 (1) The combination of investigation, prosecution
17 and adjudicatory functions in CalTrans deprived
18 Lionsgate of its right to be heard by impartial
19 tribunal. CalTrans is so biased and prejudiced
20 against Lionsgate that a fair hearing was not
21 possible.

22 (2) Lionsgate was deprived of the right to cross-
23 examine effectively the witnesses against it, a
24 right which is fundamental to due process.

25 (3) Lionsgate was deprived of due process by
26 CalTrans' refusal to compel witnesses to attend
27 and testify.

28 (4) Hearing officer's unjustified refusal to

1 admit relevant material evidence prejudiced
2 Lionsgate's ability to present an effective
3 defense to CalTrans' accusations.

4 (5) Respondent shifted the burden of proof to
5 Lionsgate and based its decision on Lionsgate's
6 alleged failure to prove its responsibility as a
7 contractor.

8 (c) Respondent proceeded without or in excess of its
9 jurisdiction and prejudicially abused its discretion in
10 failing to proceed in the manner required by law, in
11 that:

12 (1) The Director's decision constitutes a
13 suspension of Lionsgate from bidding on or
14 receiving any contract from CalTrans indefinitely,
15 contrary to Public Contract Code §10285.1.

16 (2) As set forth above, CalTrans improperly
17 shifted the burden of proof at the hearing to
18 Lionsgate;

19 (3) As set forth above, CalTrans deprived
20 Lionsgate of due process;

21 (4) CalTrans' findings do not support the
22 decision that Lionsgate is not a responsible
23 bidder, because the findings do not address
24 Lionsgate's fitness or capacity to perform work
25 included in the Contract.

26 (5) The evidence does not support CalTrans'
27 findings or CalTrans' decision.

28 11. As the apparent low bidder on the Contract, Lionsgate

1 has a fundamental vested right to the Contract, as well as all
2 other CalTrans contracts, which has been affected. Therefore,
3 the scope of review is under the independent judgment test.

4 12. CalTrans has represented that its decision is final as
5 of June 29, 1994. Lionsgate has exhausted its administrative
6 remedies and has no appeal, nor any plain, speedy, or adequate
7 remedy at law.

8 13. CalTrans' decision of June 29, if allowed to be
9 enforced, and unless stayed or enjoined and restrained by order
10 of this Court, will cause great and irreparable injury to
11 Lionsgate. If the decision is executed, the Contract will be
12 awarded to a bidder other than Lionsgate, and Lionsgate will lose
13 all profit and other benefits to Lionsgate's business. In
14 addition, Lionsgate will no longer be eligible to receive public
15 works contracts from CalTrans, and will be effectively barred
16 from bidding or performing CalTrans' projects. At this time, all
17 of Lionsgate's work is with CalTrans. A determination that
18 Lionsgate is not a responsible bidder is the economic equivalent
19 of capital punishment for Lionsgate.

20 14. A stay is not against the public interest, as there is
21 no special urgency to the award of the Contract, and an award to
22 any bidder other than Lionsgate would be in an amount at least
23 \$40,000 higher than Lionsgate's bid price. Petitioner is likely
24 to prevail on the merits.

25 15. Lionsgate will be damaged in an amount at least equal
26 to its lost profit on the Contract. Petitioner is entitled to
27 recover these damages under Code of Civil Procedure §1095.
28 Petitioner will seek leave to amend this petition to request such

1 damages once they are sustained and upon compliance with any
2 relevant tort claim act provisions.

3 16. Respondent is liable for these damages by reason of its
4 unlawful determination that Lionsgate is not a responsible
5 bidder, which determination effectively debars Lionsgate from
6 bidding CalTrans, or any other, public work.

7 17. Lionsgate has no adequate remedy at law for the
8 injuries threatened since it would be impossible for Lionsgate to
9 determine the precise amount of damages which it would suffer if
10 the conduct of respondents and defendants is not restrained.

11 18. As a result of respondents' conduct, Lionsgate has been
12 compelled to retain legal counsel, and is personally obligated to
13 pay its attorney for services to prosecute this action.

14 Petitioner is entitled to recover attorneys' fees as provided in
15 Government Code §800 if it prevails in this action.

16 19. Petitioner has requested that CalTrans prepare a true
17 and correct copy of the administrative record. A true and
18 correct copy of the record will be lodged with the Court as soon
19 as Lionsgate receives it.

20 WHEREFORE, Lionsgate seeks judgement as set forth below.

21

22 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

23 20. Lionsgate incorporates herein the allegations of
24 paragraphs 1 through 18, inclusive.

25 21. An actual controversy has arisen and now exists among
26 the parties concerning the validity of the CalTrans decision of
27 June 29, 1994 declaring Lionsgate is not the lowest responsible
28 bidder and to award the contract to the second low bidder.

1 Lionsgate contends that the decision is illegal and void.
2 Conversely, respondents and defendants contend that the decision
3 is legal and valid.

4 22. Lionsgate desires a judicial determination that the
5 CalTrans decision is illegal and void.

6 23. A judicial declaration is necessary and appropriate at
7 this time in order that the parties hereto may ascertain their
8 respective rights and duties with regard to the Contract.

9 24. For the foregoing reasons, Lionsgate seeks a stay
10 and/or temporary restraining order to bar respondent from
11 enforcing respondent's decision of June 29, 1994 until this. If
12 respondent has awarded the contract, Lionsgate seeks a stay or
13 temporary restraining order barring any work or payment under the
14 contract until this matter can be heard on notice.

15 WHEREFORE, petitioner/plaintiff Lionsgate prays that:

16 1. An alternative writ of mandamus be issued, ex parte,
17 commanding the Director of the State of California Department of
18 Transportation to vacate its decision that Lionsgate is not a
19 responsible bidder on Contract No. 04-141904, and to award the
20 contract in accordance with the bid documents, or to reject all
21 bids, or to show cause before this Court at a time and place
22 specified why it has not done so and why a peremptory writ should
23 not issue; and

24 2. After a hearing on this petition, the Court issue
25 peremptory writ of mandate commanding respondent to vacate its
26 decision that Lionsgate was not the lowest responsible bidder on
27 Contract No. 04-141904 and to award the contract in accordance
28 with the bid documents; and

1 3. A preliminary injunction issue enjoining the Director
2 of the State of California Department of Transportation, its
3 officers, employees and agents, from and to:

4 (a) awarding Contract No. 04-141904 to any party other
5 than Lionsgate Corporation;

6 (b) Proceeding with the award of the Contract in
7 accordance with the terms of the bid documents and with
8 the law

9 until this matter can be heard on notice.

10 4. That Lionsgate recover its costs including attorneys'
11 fees in this action;

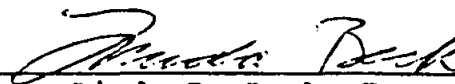
12 5. Plaintiff/petitioner recover its damages according to
13 proof; and

14 6. Such other and further relief as the Court deems just
15 and proper.

16 Dated: July 5, 1994

17 CARR, MCCLELLAN, INGERSOLL, THOMPSON & HORN
18 Professional Corporation

19 By



20 Linda R. Beck, Esq.
21 Attorneys for Petitioner/Plaintiff,
22 LIONSGATE CORPORATION
23
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28

VERIFICATION OF PETITION AND COMPLAINT

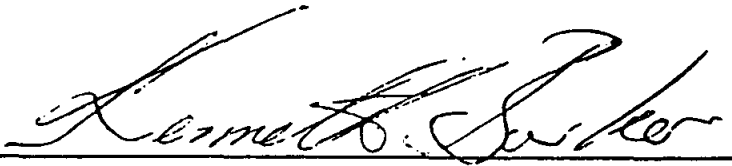
I, Kenneth Barker, declare:

I am an officer of Lionsgate Corporation, a California corporation, and I am authorized to make this verification on the corporation's behalf.

I have read the foregoing Petition and Complaint. Of my own knowledge, the facts set forth there are true and correct, except as to those matter stated on information and belief, and as to those matters, I believe them to be true.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:


Kennth Barker

BEFORE THE
DEPARTMENT OF TRANSPORTATION
STATE OF CALIFORNIA

In the Matter of the
Responsibility Hearing Re:

LIONSGATE CORPORATION

Contract No. 04-141904

Respondent.

OAH No. N-9406021

RECOMMENDED DECISION

On June 16, 17, and 22, 1994, in Sacramento, California, M. Amanda Behe, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Frederick Graebe, Counsel, Department of Transportation, represented the Department of Transportation.

Lionsgate Corporation was represented by Kenneth Barker, General Manager.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The State of California, Department of Transportation (hereinafter "CalTrans"), solicited bids for proposed Contract No. 04-141904 which concerns seismic retrofit work. The bids submitted for the proposed contract were opened by CalTrans on May 11, 1994, in Sacramento, California. Lionsgate Corporation (hereinafter "Lionsgate") submitted the lowest bid.

II

Lionsgate is described by Kenneth Barker, Lionsgate's General Manager, as a family corporation which employs his three sons. His wife is president of Lionsgate. Kenneth Barker is not a licensed civil engineer or a licensed engineer in any field. His son Paul Barker, who worked on various projects described herein, is not a licensed civil, traffic, or safety engineer.

III

By his letter of June 1, 1994, R.P. Weaver, CalTrans Interim Chief Deputy Director, advised Lionsgate of CalTrans' preliminary determination that Lionsgate is not a responsible bidder and that, therefore, the contract be awarded to the second lowest bidder. That letter described matters pertaining to Lionsgate's performance on Contract No. 10-435004, Contract No. 04-133284, and Contract No. 04-133074 in support of the preliminary determination.

In the same letter Lionsgate was advised that an opportunity to present information that the allegations concerning its performance were inaccurate would be provided. The matter was scheduled for hearing on June 9, 1994; that hearing date was rescheduled to June 16, 1994.

IV

By his letter of June 1, 1994, R.P. Weaver appointed Administrative Law Judge M. Amanda Behe to conduct a hearing to determine the responsibility of Lionsgate Corporation with regard to proposed CalTrans Contract No. 04-141904.

V

In the past five and one-half years CalTrans has let approximately 5,400 construction contracts. For each of those projects CalTrans prepared a bid document describing the work, advertised the project, and awarded the contract to the lowest bidder. The subject matter is the only preliminary determination that a bidder is not responsible in CalTrans' award of its last 5,400 construction contracts. The most recent hearing on such a determination occurred February 25, 1986, more than eight years ago.

The preliminary determination by the Interim Chief Deputy Director was based on information from CalTrans' Chief Engineer, the Division of Construction, and staff of District Offices. That information concerned the performance of Lionsgate on three recent/ current projects in the context of the performance of other contractors on more than five thousand contracts. CalTrans considered the number and type of disputes which occurred on the three listed projects, the nature and quantity of letters, faxes, and memoranda generated by Lionsgate,

and efforts to resolve project disputes, including associated costs to CalTrans in time and resources.

Phyllis Griffin, Division of Construction, compared the number of Lionsgate's letters, faxes, and memoranda on the three contracts to those received by CalTrans on comparable projects. She persuasively testified that Lionsgate sent an inordinate number of such communications, and repeated disputes or questions in letter after letter when an answer or response had previously been provided.

Performance of the three projects was hindered by the number and nature of written communications from Lionsgate, and the repetition of issues after a written answer had been provided. Ms. Griffin's conclusion that Lionsgate demonstrated an inability to competently resolve the problems and disputes which typically arise on construction projects is persuasive. The Lionsgate projects have been inordinately costly and time-consuming, and display a refusal of Lionsgate to resolve problems at the field level without voluminous, repetitive and unnecessary paperwork.

VI

Lionsgate entered into Contract No. 04-133074 with CalTrans for a seismic retrofit project in Berkeley. During the course of the project Kenneth Barker, Lionsgate's General Manager, made disparaging statements regarding the Resident Engineer and other CalTrans staff assigned to the project. For example, Kenneth Barker referred to the project Resident Engineer and Senior Engineer as incompetent and serving in title only. At hearing Kenneth Barker stated that the project Resident Engineer was an "amateur" who had "only three days training". In fact, that Resident Engineer is a registered civil engineer who has had contract administration experience and training with CalTrans since his employment in 1988. In numerous letters Kenneth Barker referred to CalTrans as incompetent, and asserted "continuous erroneous administration of the contract, (sic) by the State" [Lionsgate Letter 127-88] and "the State's unreasonable and irrational interference" [Lionsgate Letter 127-79].

The number and nature of letters, memoranda, and faxes generated by Lionsgate imposed a significant administrative burden on CalTrans far in excess of projects of comparable scope and complexity. Although the project had a construction budget of only \$123,000 per month, Lionsgate generated six pieces of correspondence per week. Resident Engineer David Franco noted that Lionsgate was uncooperative in his efforts to resolve problems in the field. A full-time Resident Engineer was required to respond to the "steady stream of correspondence" from Lionsgate, when typically two or three such projects would be assigned to a Resident Engineer. David Franco noted that:

"Lionsgate tended to submit letters in groups of three to eight at a time, requiring the State to answer in

the same manner, when it tried to be timely with its replies. As immediate replies to these barrages of correspondence was rarely possible for all of the received letters, follow up letters or faxes were often received within 24 to 48 hours complaining about the State's untimely response to specific letters. These follow up letters were often carbon copied to higher levels of the State's administration as examples of the contract administrator's inability to perform his duties."

Lionsgate is demanding extra compensation for alleged delays related to the volume of correspondence it initiated.

On its Proposed Final Estimate Lionsgate listed thirty-eight exceptions which it asserted will be perfected into claims after review by its attorney and accountant. Contract No. 04-133074 incorporates specific requirements and time limits for claims by contractors. Despite the clear terms of the contract Lionsgate requested permission to submit late claims; that request was refused by CalTrans. Despite that decision, on May 1, 1994 Lionsgate demanded a 120-day extension to submit additional claims. Lionsgate demanded claims administration procedures which were contrary to contract terms.

Lionsgate's assertion that CalTrans endangered its employees and subcontractors by failing to notify it of lead-contaminated soil is not supported by the evidence. No contaminated soil was present on the site of project No. 04-133074, and Lionsgate was advised of that matter by the Resident Engineer's letter of September 30, 1993. The contaminated soil was on another site, a highway-widening project performed by another contractor, O.C. Jones. That project was shut down due to the lack of an off-haul dumpsite for that soil.

VII

Lionsgate entered into Contract No. 04-133284 with CalTrans for a seismic retrofit project in Contra Costa County at Pleasant Hill, Concord, and other locations for \$2.5 million. Kenneth Barker, Lionsgate's General Manager, criticized the CalTrans staff assigned to the project as incompetent and inexperienced. For example, Kenneth Barker referred to the CalTrans Resident Engineer as "stupid", "inexperienced", and "foolish". At hearing Kenneth Barker testified that the Resident Engineer was "immature" and "amateurish".

During the course of its contract performance Lionsgate refused to comply with Contract Specification 4-1.01, which concerned the authority of the Resident Engineer on the project. In addition, Lionsgate repeatedly attempted to go over the head of the Resident Engineer to District Management with the result that contract administration required additional expenditures of the time and resources of senior CalTrans staff.

Brian Boal, CalTrans Senior Bridge Engineer and a registered professional engineer, has supervised construction contracts of more than thirteen contractors valued up to \$35 million. His opinion that the administration of Contract No. 04-133284 was unusually burdensome is persuasive. He noted that:

"The constant barrage of letters with unsubstantiated claims, erroneous statements and memorializing of non-existent agreements requires an inordinate amount of personnel to attend to. The responsible contractors on our other contracts are paying the price for Mr. Barker's excessive demands on our time. Unlike Mr. Barker they are cooperative and conduct business on the basis of trust and mutual respect."

Brian Boal compared Lionsgate's performance with the work of other contractors on several other contracts ranging from contracts of similar size and scope to a major \$44 million project. He described the paperwork burden with the Lionsgate project as:

"Extremely high, completely unnecessary, counterproductive and unprecedented even on contracts much larger and more complex than this one. In the past week we received 24 letters, including 8 on June 7 and 7 on June 10. A completely irresponsible approach to construction. The combined paper output of all the contractors on all the projects under my supervision is far surpassed by Lionsgate on their single project. And again I point out that Lionsgate is doing almost no work on the project while these other jobs are doing hundreds of thousands of dollars worth of work."

Lionsgate refused to order steel in a timely manner for its performance of Contract No. 04-133284, and repeatedly represented that steel was not available due to the Northgate earthquake. Lionsgate failed to comply with Standard Specification 8-1.07 that shortages be documented to justify a time extension; and CalTrans determined that such a shortage did not exist. Concerned about the timely completion of the contract, CalTrans canvassed various steel suppliers and found that, in fact, steel supplies were available. To assist Lionsgate CalTrans provided Lionsgate with a list of the names and addresses of suppliers who could furnish the required materials. The testimony at hearing of Kenneth Barker that Lionsgate ordered steel supplies prior to the contract being signed is not credible, and contradicts his representations to CalTrans in a Progress Meeting held May 26, 1994. Lionsgate did not present any competent evidence reflecting the date of its alleged orders for such materials. In light of the voluminous documents presented in the lengthy subject hearing, Lionsgate's failure to present credible evidence of steel orders is telling. Lionsgate offered no competent, i.e. non-hearsay, evidence that the delay was caused by a dispute regarding whether steel pilings incorporating "recycled Toyotas" qualified under the "Buy

American" Act. Lionsgate's representations that steel was unavailable were false and did not justify delays in the project.

During the course of Lionsgate's performance on Contract No. 04-133284 Kenneth Barker misrepresented statements made by CalTrans staff and others, and wrote several letters misstating the content of meetings. For example, he misrepresented that one staff member had approved a waiver of the \$5,000 inspection fee required by Section 10-1.23, and when caught in that falsehood stated that another individual had approved the waiver. The second individual had not authorized the waiver or even discussed the topic with Kenneth Barker. Nonetheless, Kenneth Barker falsely represented in a letter to CalTrans (Lionsgate letter 131-11) that approval of the waiver was received.

Lionsgate issued an inordinate number of letters and memoranda in the course of Contract No. 04-133284. Gerald Ducey, CalTrans' Deputy Director for Construction, is familiar with comparable projects and the conduct of other contractors who perform construction projects for CalTrans. He persuasively testified that Lionsgate sent an "excessive" number of letters above and beyond what comparable projects would require. Mr. Ducey noted that it took an inordinate amount of the Resident Engineer's time to answer the numerous Lionsgate inquiries regarding work, supplies, etc. which delayed completion of the project. He noted further that Lionsgate is seeking additional compensation for such delays generated by its unnecessary correspondence.

On May 26, 1994 Lionsgate refused to supply a rollover three week progress schedule for Contract No. 04-133284 despite specific provisions of the contract which required Lionsgate to provide such a schedule when directed by the Resident Engineer. A schedule reflects the major items of work and the critical path to their completion. As of June 1, 1994, CalTrans was considering terminating the project for non-performance. Lionsgate did not provide a revised schedule for completion of the project until June 7, 1994 [Exhibit N]. The revised schedule was not created until after Lionsgate was notified of CalTrans' preliminary determination concerning the subject award due to Lionsgate's performance problems.

VIII

Lionsgate entered into Contract No. 10-435004 with CalTrans for a construction project in Solano County generally at Cordelia on Route 80 and Route 680. During its performance on the contract Kenneth Barker, Lionsgate's General Manager, made verbal and written disparaging statements regarding CalTrans' Resident Engineer and Deputy District Director for Construction. In a series of letters to CalTrans in March and April 1994, Kenneth Barker alleged that CalTrans's staff was incompetent. In his letter of March 8, 1994, Kenneth Barker stated that the Resident Engineer "lacks both the experience and knowledge to

perform the job of Resident Engineer". Kenneth Barker alleged in his letter of March 30, 1994, that "the oversight process of the Resident Engineer by the Senior Engineer (Mr. Christy Philipp) and Others (sic), is dysfunctional". Kenneth Barker's missive of April 5, 1994 stated "the undersigned once again complains of the Resident Engineers's (sic) profound lack of experience and know how (sic)". The Resident Engineer on the project is a registered professional engineer.

In the course of its performance of Contract No. 10-435004 Lionsgate refused to file Notices of Potential Claim in the manner required by Sections 5-1.03 and 5-1.04 of that contract. As a consequence of Lionsgate's failure to comply with the contract terms, CalTrans did not have the opportunity to either mitigate or ascertain damages. In March 1994, Linn Ferguson, a retired Supervising Transportation Engineer, had various discussions with Kenneth Barker in an attempt to elicit the required Notice of Potential Claim forms. Kenneth Barker stated that the forms, which required certification under penalty of perjury pursuant to the California False Claims Act, were "unconstitutional" and that on the advice of two or three attorneys he did not have to comply with the contract requirements. At hearing Kenneth Barker acknowledged that although Lionsgate had numerous disputed claims and demands additional compensation from CalTrans it had not, as of the date of the subject hearing, submitted Notices of Potential Claim on Forms HC-11. His testimony that Lionsgate was not required to use such forms is not persuasive; their use is mandated by the express terms of the contract.

Linn Ferguson was brought in on the project in March 1994 to attempt to resolve various claims disputes between Lionsgate and CalTrans which had affected the progress of the project. Lionsgate submitted a demand for payment which lacked sufficient information regarding the work status for the Resident Engineer to determine whether funds should be released. The Resident Engineer directed Lionsgate to submit a revised progress schedule, and withheld the progress payment upon Lionsgate's refusal to submit that schedule. Pursuant to the contract Lionsgate was required to submit a progress schedule when directed to do so by the Resident Engineer. Linn Ferguson's testimony that Lionsgate is not a responsible bidder because of its refusal to comply with obvious contract requirements is persuasive.

Lionsgate demanded additional compensation for several items such as falsework drawings and calculations, shoring drawings and calculations, etc. which it was required to provide as part of its performance under the contract.

Lionsgate sent more than 125 letters to the Resident Engineer in less than five months, all of which required considerable amounts of his time to answer. Lionsgate repeated questions or concerns in sequential letters, although CalTrans had provided written answers to those questions or concerns. For

example, Lionsgate's letter of April 19, 1994, stated "Lionsgate again requests that the State approve the Shotcrete Mix Design, which was submitted to the State for approval on February 4, 1994". In fact by the date of that letter Lionsgate had received multiple telephone calls, a fax dated March 11, 1994, and three CalTrans letters stating that the Shotcrete mix design had been approved [CalTrans Letters Nos. 14, 26, and 29]. Lionsgate similarly reiterated inquiries concerning casing radii, polystyrene, etc., which had been previously and repeatedly addressed by CalTrans in writing. Lionsgate offered no explanation for its apparent failure to read and/or understand CalTrans' written responses.

In his letter of April 21, 1994, Kenneth Barker stated:

"We are in receipt of a number of State letters that we find difficult to understand. Specifically: The lack of paragraphs and the combining of several issues in the same letter, (sic) make the letters almost unintelligible. This, combined with State opinion, (sic) which is devoid of any reference to the specific terms of the contract governing the issues allegedly under discussion, (sic) make the letters even more difficult to comprehend.

"Accordingly, if the State wishes a Lionsgate response, please set forth the issues in a logical, readable format, so that they can be readily understood."

(punctuation in original)

None of the CalTrans letters in the record "lack paragraphs"; most have multiple paragraphs. A person of Kenneth Barker's asserted education and experience can reasonably be expected to understand a letter which addresses more than one "issue". That a letter concerns "several issues" does not make it "almost unintelligible".

During Lionsgate's performance of Contract No. 10-435004 Kenneth Barker made numerous and extensive Public Records Act demands of CalTrans' staff. Kenneth Barker directed his demands to the Resident Engineer with whom he had disputes on Contract No. 10-435004, and the six supervisors in his chain of command. Kenneth Barker's four demands dated April 4 and April 11, 1994 sought massive amounts of daily, weekly and monthly reports on all constructions projects, correspondence and memoranda on all projects to and from seven CalTrans staff, all schedules and correspondence dating back to 1987 on all construction projects, etc. Kenneth Barker's letters also demanded that CalTrans produce those monumental amounts of documents within ten days. No evidence suggests that the requests for public records were related to or necessary for Lionsgate's performance of the contract.

At hearing Kenneth Barker repeatedly confused the Public Records Act, Government Code section 6250, et seq., with the federal Freedom of Information Act. He acknowledged that his Public Records Act demands were made because Lionsgate "was complaining" about Caltrans. Kenneth Barker testified that he made his Public Records Act demands to see other contractors' performance schedules. His testimony is not credible; the demands were not limited to obtaining samples of other contractors' schedule documents. Kenneth Barker's demands under the Public Records Act were clearly vexatious, punitive, and a violation of the contractual requirement of good faith and fair dealing.

Lionsgate had several significant safety problems on Contract No. 10-415004 including that work on the project was halted for lack of certification of its cranes. Caltrans demanded the certificates and Lionsgate was unable to produce current and valid certificates for its equipment. Although Kenneth Barker testified that the cranes had been certified on a yearly basis he presented no competent evidence of such certificates. In light of the numerous documents offered by Lionsgate, the absence of those certificates is telling.

IX

In the course of its performance of Caltrans contracts, Lionsgate was required to comply with Caltrans Standard Specification S-1.01, which concerned the responsibility and authority of the project Engineer. Kenneth Barker, Lionsgate's General Manager, repeatedly refused to attempt to resolve disputes with assigned Resident Engineers as required by recent/current contracts.

Kenneth Barker, Lionsgate's General Manager, repeatedly "went over the head" of assigned project staff to senior Caltrans personnel by writing or calling senior staff directly. In consequence, intervention by senior Caltrans staff occurred resulting in unnecessary costs to Caltrans of time and personnel.

X

Kenneth Barker, Lionsgate's General Manager, testified to the need to expose the irresponsible waste of money, mismanagement, fraud, and incompetence of Caltrans. He described Caltrans as "an incompetent outfit"; that Caltrans is rife with "fraud", "impossibly incompetent mismanagement" and "massive disorganization"; and that "whatever level you go to" poor attitudes "are ingrained". In contrast, Kenneth Barker testified that he "has never met a contractor who is as well-qualified as us (Lionsgate)".

Kenneth Barker testified that the California Legislature should eliminate Caltrans and allow private businesses to perform Caltrans' responsibilities.

The testimony of Kenneth Barker, Lionsgate's General Manager, displays considerable personal animosity against CalTrans employees and imputes base motives to those employees. For example, he testified that a CalTrans Resident Engineer was unconcerned about safety and that "he didn't care if we [employees of Lionsgate and its subcontractors] all got killed". He testified at length that improper motives, mental illness, incompetence, inexperience, racial bias, etc., characterize various staff of CalTrans. Kenneth Barker testified that only "one in ten CalTrans employees is competent to perform the job they are assigned".

Lionsgate has permitted the rancor and enmity of its staff to affect its contract performance. The testimony of both Kenneth Barker and Paul Barker reflects a patent inability to conduct business in a professional manner, without resorting to maligning CalTrans staff. Disputes, problems, and claims attend any construction project; a responsible bidder can be assessed by the manner in which it addresses such predicaments. Here, responses such as disparaging CalTrans staff, generating unwarranted correspondence of up to eight letters per day, formulating vexatious Public Records Act demands, etc., establish that Lionsgate elects to exacerbate rather than resolve such difficulties.

Lionsgate was the lowest bidder on the projects described above, and has had ample opportunity to demonstrate the factors which comprise a responsible contractor. Instead, Lionsgate's performance, briefly set forth above, displayed an intentional failure to comply with contract terms, a lack of capacity to complete projects in a timely and competent manner, and an absence of the trustworthiness essential to good faith and fair dealing. CalTrans is not required to continue to let contracts to such a bidder.

DETERMINATION OF ISSUES

I

The preponderance of the evidence establishes that on three recent/current projects Lionsgate has refused to comply with contract claims procedures and ignored other contract terms, including those pertaining to the authority of the Resident Engineer, progress schedules, etc., in a manner which has compromised the timely and proper performance of the contract.

II

The preponderance of the evidence establishes that Lionsgate elected to delay its performance of Contract No. 04-133284 by failing to timely order necessary steel supplies and failed to cooperate with efforts to resolve the problem, with the

result that the timely performance of the contract was compromised.

III

The preponderance of the evidence establishes that Lionsgate's numerous and extensive Public Records Act demands of CalTrans' staff were made to harass and punish CalTrans, and violated the contractual requirement of good faith and fair dealing.

IV

The preponderance of the evidence establishes that Lionsgate refused to submit progress schedules as required by its contracts with CalTrans, delaying timely completion of those contracts.

V

The preponderance of the evidence establishes that Lionsgate through Kenneth Barker, Lionsgate's General Manager, has routinely engaged in personal attacks upon the reputation, competence and integrity of CalTrans staff. Those actions by Lionsgate and Kenneth Barker, Lionsgate's General Manager, have been detrimental to the timely and cooperative completion of current/recent contracts. Those actions have further required the intervention of senior CalTrans personnel, the unnecessary expenditure of CalTrans time and resources, and have compromised the timely and proper performance of contracts.

VI

No evidence suggests that the conduct of Lionsgate and Kenneth Barker, Lionsgate's General Manager, will differ on the subject proposed contract from that displayed on the projects noted above. CalTrans is not required to contract with an apparent low bidder where a repetition of performance deficiencies, unwarranted and unnecessary delays and disputes, and failures to comply with contract requirements must be anticipated. Rather, CalTrans has an affirmative duty to contract with responsible bidders to assure the orderly and proper performance of construction projects.

The preponderance of evidence establishes that the delays and difficulties which have attended the three contracts discussed above were not minor or infrequent. CalTrans staff credibly testified that the number of disputes, and delays and excess costs attendant thereto, are unprecedented in CalTrans' history. Lionsgate's characterization of its history on those contracts as parallel or similar to the experience of other contractors of CalTrans is not credible.

The public policy purposes of competitive bidding, that the public receive the greatest benefit for their money (Boydston

V. Napa Sanitation Dist. (1990) 222 Cal.App.3d 1362, 273 Cal.Rptr. 458 is not served by contracting with an entity whose bid is apparently the lowest, but whose performance under the contract will necessitate unwarranted additional costs and will result in inexcusable performance delays. Thus the subject determination concerns the lowest responsible bidder, rather the lowest bidder.

Here, Lionsgate repeatedly disregarded and violated express contractual terms, failed to complete projects in a timely and competent manner, harassed CalTrans with punitive Public Records Act demands, and violated the requirements of good faith and fair dealing. Judged alone Lionsgate is not a responsible bidder. Judged against the hundreds of other contractors who have received more than five thousand CalTrans contracts Lionsgate is not a responsible bidder.

ORDER

I

The determination of the Department of Transportation that Lionsgate is not a responsible bidder is sustained.

II

The determination of the Department of Transportation to award Contract No. 04-141904 to the second lowest remaining bidder is sustained.

Date:

JUNE 28, 1994



H. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE DIRECTOR
1120 N STREET
P.O. BOX 942873
SACRAMENTO, CA 94273-0001

FAX (916) 654-6608
TDD (916) 654-4014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED


June 29, 1994

Kenneth Barker
Lionsgate Corporation
P. O. Box 408
Alamo, CA 94507

Dear Mr. Barker:

In my letter of June 1, 1994 I informed you of my tentative determination to declare that Lionsgate cannot be considered the lowest responsible bidder on Contract No. 04-141904 and to award the contract to the second low bidder. This determination has been sustained by order of M. Amanda Behe, Administrative Law Judge, who presided over the Responsibility Hearing in this matter and is now final. A copy of the judge's report is attached. The Department is proceeding to award this contract to the second low bidder.

Sincerely,



R. P. WEAVER
Interim Chief Deputy Director

Attachment

EVIDIT R

I, Kathy Rossow, Senior Legal for the Office of Administrative Hearings, do hereby certify that the attached document, is a true copy of the Recommended Decision in the possession of the Office of Administrative Hearings pertaining to case number N 9406021, Lionsgate Corporation.

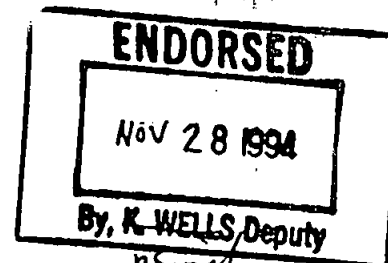
Dated

4/10/95

Kathy Rossow
Kathy Rossow

NICHOLAS G. FINE, Attorney Bar No. 883011
FREDERICK GRAEBE, Attorney Bar No. 050630
Attorneys for Department of Transportation
1120 N Street, P. O. Box 1438
Sacramento, CA 95812-1438
Telephone: (916) 654-2630

Attorneys for Defendant
State of California



SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

LIONSGATE CORPORATION,
a California Corporation,

Petitioner/Plaintiff,

v.

DIRECTOR OF THE STATE OF
CALIFORNIA, DEPARTMENT OF
TRANSPORTATION, and Does 1
through 50, inclusive,

Respondents/Defendants.

NO. 378623

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS

Plaintiff/Petitioner Lionsgate's ("Lionsgate") petition for writ of mandamus came on regularly for hearing at 10:00 a.m., on October 28, 1994, in Department 22, before the Honorable Roger Warren.

Lionsgate was represented by Claudia J. Martin, Esq. and Respondent/Defendant Director of the Department of Transportation of the State of California ("Caltrans") was represented by Frederick Graebe, Esq.

Caltrans
Legal Division
8/18/94

1 Based on the pleadings, the memoranda oints and
2 authorities, and the record of the prior administrative proceeding
3 by Caltrans and having ^{orally} stated its ^{decision} ~~findings and conclusions~~ based on
4 the evidence in the record and applicable law and oral argument of
5 the parties, the Court rules as follows:

6 1. Lionsgate's petition for a writ of mandamus to set aside
7 Caltrans' determination of Lionsgate's non-responsibility regarding
8 award of Contract 04-141304 is denied.

9 2. Caltrans is awarded its cost.

10

11

12 DATED:

11/28/94

ROGER K. WARREN

HONORABLE ROGER WARREN
Judge of the Superior Court

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Professional Corporation

2 Paul A. Aherne, Esq. (Bar No. 106887)
Claudia J. Martin, Esq. (Bar No. 142527)
3 Alan Robert Rosin, Esq. (Bar No. 115245)
1900 South Norfolk, Suite 260
4 San Mateo, CA 94403
Telephone: (415) 358-6990

6 Attorneys for Plaintiff
LIONSGATE CORPORATION

8 IN THE UNITED STATES DISTRICT COURT

9 IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CIV-S-95-517 DFL GGH

11 LIONSGATE CORPORATION, a
California corporation,

12 Plaintiff,

13 vs.

14 JAMES W. VAN LOBEN SELS,
15 individually and as Director
of the California Department
16 of Transportation, RONALD I.
HOLLIS, individually and as
17 Chief of the Contract Progress
and Services Branch of the
18 California Department of
Transportation, P. KAY
19 GRIFFIN, individually and as
Office Engineer for the
20 California Department of
Transportation, R.P. WEAVER,
21 individually and as Interim
Chief Deputy Director for the
22 California Department of
Transportation, and DOES 1
23 THROUGH 100, INCLUSIVE,

24 Defendants.

) CIVIL ACTION NO.

) COMPLAINT FOR DEPRIVATION OF
) CIVIL RIGHTS, INJUNCTIVE RELIEF,
) AND DECLARATORY RELIEF

25
26
27 For its complaint against defendants, and each of them,
28 Lionsgate Corporation alleges as follows:

GENERAL ALLEGATIONS

1
2 1. At all times relevant hereto, plaintiff, LIONSGATE
3 CORPORATION [hereinafter, "LIONSGATE,"] was and is a corporation
4 duly authorized to conduct business under the laws of the State of
5 California and is a licensed contractor in the state of California
6 generally engaged in the business of repairing, reconstructing and
7 retrofitting, highways, bridges and appurtenances thereto.
8 LIONSGATE's principal office is in Alamo, Contra Costa County,
9 California.

10 2. At all times relevant hereto, defendant, JAMES W. VAN
11 LOBEN SELS, [hereinafter, "VAN LOBEN SELS,"] was and is the
12 Director of the California Department of Transportation, a
13 department or agency of the State of California, whose principal
14 offices are located in Sacramento, California, and in doing all of
15 the things hereinafter mentioned, acted under color of his
16 authority as an official and/or employee of the State of
17 California, and further acted under color of the statutes,
18 regulations, customs and usages of the State of California.

19 3. At all times relevant hereto, defendant, RONALD I.
20 HOLLIS, [hereinafter, "HOLLIS,"] was and is the Chief of the
21 Contract Progress and Services Branch of the California Department
22 of Transportation, a department or agency of the State of
23 California, whose principal offices are located in Sacramento,
24 California, and in doing all of the things hereinafter mentioned,
25 acted under color of his authority as an official and/or employee
26 of the State of California, and further acted under color of the
27 statutes, regulations, customs and usages of the State of
28 California.

1 4. At all times relevant hereto, defendant, P. KAY GRIFFIN,
2 [hereinafter, "GRIFFIN,"] was and is employed in the capacity of
3 Office Engineer for the California Department of Transportation, a
4 department or agency of the State of California, whose principal
5 offices are located in Sacramento, California, and in doing all of
6 the things hereinafter mentioned, acted under color of her
7 authority as an official and/or employee of the State of
8 California, and further acted under color of the statutes,
9 regulations, customs and usages of the State of California.

10 5. At all times relevant hereto, defendant, R.P. WEAVER,
11 [hereinafter, "WEAVER,"] was and is employed in the capacity of
12 Interim Chief Deputy Director for the California Department of
13 Transportation, a department or agency of the State of California,
14 whose principal offices are located in Sacramento, California, and
15 in doing all of the things hereinafter mentioned, acted under color
16 of his authority as an official and/or employee of the State of
17 California, and further acted under color of the statutes,
18 regulations, customs and usages of the State of California.

19 6. LIONSGATE has sued defendants DOES 1 through 100,
20 inclusive, as the true names and capacities of such persons are not
21 known at this time. Upon discovering the true names and capacities
22 of DOES 1 through 100, inclusive, LIONSGATE will move to amend this
23 complaint accordingly.

24 7. Jurisdiction of the subject matter of this action is
25 established in this court under Title 28 of the United States Code
26 Section 1331.

27 8. This is an action seeking relief for the deprivation of
28 civil rights under color of state law brought pursuant to Title 42

1 of the United States Code, Section 1983, for remedies due to the
2 defendants' deprivation of plaintiff's civil rights in which the
3 defendants, all officials and/or employees of the State of
4 California, Department of Transportation [hereinafter, "Caltrans,"]
5 have engaged in a continuing course of conduct in contravention of
6 law to deprive plaintiff of vested property rights as the low
7 bidder on several publicly bid contracts, in violation of state
8 public contract law, defendants have denied and deprived LIONSGATE
9 of due process of law by refusing to provide LIONSGATE with an
10 opportunity to refute the basis for each denial of public contract
11 work, and defendants have repeatedly failed and refused to comply
12 with public records act requests of LIONSGATE in contravention of
13 state law. By this action plaintiff seeks all legal and equitable
14 relief to which it may be entitled, including, but not limited to
15 compensatory and punitive damages, equitable and declaratory
16 relief, attorneys's fees, costs and prejudgment interest against
17 all defendants named herein.

18 9. Pursuant to the California Public Contract Code at
19 Sections 10101, 10105, 10108, 10122, Caltrans is legislatively
20 required to solicit bids and mandated to award the work on any
21 public project for construction, alteration repair or improvement
22 of state highways and appurtenances thereto, to the lowest
23 responsible bidder, unless it determines to reject all bids.

24 10. Pursuant to the Specifications of Caltrans at Section 3-
25 1.01, the award of a public works contract, if awarded at all, must
26 be awarded to the lowest responsible bidder whose proposal complies
27 with all the requirements prescribed.

28 11. As officials and/or employees of Caltrans, defendants,

1 and each of them, are under a duty to comply with all state,
2 department and agency laws, regulations and rules.

3 12. Pursuant to California law, a non-responsible bidder is
4 one who is not trustworthy and whose quality, fitness and capacity
5 to perform the work is lacking. Boydston v. Napa Sanitation
6 District (1990) 222 Cal.App.3d. 1362; City of Ingelwood-Los
7 Angeles County Civic Center Authority v. Superior Court (1972) 7
8 Cal.3d. 861.

9 13. Pursuant to California law, a low monetary bidder found
10 by the agency to be not responsible, must be notified of any
11 evidence reelecting upon said bidder's responsibility and afforded
12 an opportunity to rebut such adverse evidence and present evidence
13 that he is qualified to perform the contract. City of Ingelwood-
14 Los Angeles County Civic Center Authority v. Superior Court (1972)
15 7 Cal.3d. 861.

16 14. Defendants, and each of them, under color of their
17 employment and capacity as Caltrans officials and/or employees,
18 have engaged in a pattern of conduct in which they, alone and in
19 concert with one another, have determined that plaintiff was a non-
20 responsible bidder, and have failed to afford and have denied
21 plaintiff the opportunity to rebut such evidence and establish its
22 responsibility to be awarded the contracts in question.

23 15. Plaintiff, LIONSGATE, denies that it was or is a non-
24 responsible bidder.

25 Contract No. 04-141304

26 16. On or about August 16, 1994, LIONSGATE submitted a bid
27 proposal to perform work for Caltrans Contract No. 04-141304
28 consisting of highway repair and earthquake retrofitting work in

1 Contra Costa County, California, which proposal met all
2 requirements prescribed.

3 17. Although LIONSGATE was the lowest bidder for the work on
4 Contract No. 04-141304, defendants, and each of them, refused to
5 award the contract to LIONSGATE, and instead awarded the contract
6 to the second lowest bidder, in contravention of legislative
7 mandate and agency specifications.

8 18. On or about August 26, 1994, defendant WEAVER advised
9 LIONSGATE that WEAVER, and the defendants named herein, and each of
10 them, had determined that LIONSGATE was a "non-responsible" bidder,
11 which decision was predicated upon an administrative hearing held
12 more than a month prior thereto, and on another and unrelated
13 contract [No. 04-141904], and WEAVER further informed LIONSGATE
14 that it was not eligible to be awarded this contract.

15 19. Despite requests by LIONSGATE for an opportunity to rebut
16 the determination that it was a non-responsible bidder, defendants,
17 and each of them, refused to provide LIONSGATE with any opportunity
18 to refute the allegations against it and failed and refused to
19 provide LIONSGATE with an opportunity to demonstrate's its
20 responsibility and ability to perform upon this contract.

21 20. The failure and refusal of defendants, and each of them,
22 to provide LIONSGATE with a reasonable opportunity to rebut the
23 adverse allegations against it is in direct contravention of
24 California law pursuant to City of Inglewood-L.A. County Civic
25 Center Authority v. Superior Court (1972) 7 Cal.3d. 861.

26 Contract No. 04-147404

27 21. On or about October 25, 1994, LIONSGATE submitted a bid
28 proposal to Caltrans, pursuant to ordinary public bid procedure, to

1 perform highway repair and earthquake retrofitting work at the
2 intersections of Highways 101 and 280 in the City and County of San
3 Francisco, under Contract No. 04-147404, which bid proposal met all
4 requirements prescribed.

5 22. On or about November 7, 1994, defendant GRIFFIN informed
6 LIONSGATE that although it was the low bidder on Contract No. 04-
7 147404, the defendants, and each of them, had determined that
8 LIONSGATE was not a responsible bidder, however, the Department
9 further determined that it would hold a hearing on the question of
10 LIONSGATE's responsibility on or about November 21, 1994, and that
11 LIONSGATE would be further advised regarding such hearing.

12 23. LIONSGATE made request on November 7, 1994, to defendant
13 GRIFFIN, that the proposed hearing occur on or after November 28,
14 1994, and further requested that Caltrans provide LIONSGATE with
15 all documentation upon which it relied so that LIONSGATE would have
16 a reasonable opportunity to review and prepare for such hearing.

17 24. On or about November 14, 1994 defendants, GRIFFIN, VAN
18 LOBEN SELS, and HOLLIS determined that they would not afford
19 LIONSGATE a hearing regarding its responsibility to be awarded
20 Contract No. 04-147404, which determination, was based wholly or
21 substantially, upon LIONSGATE's request to be provided with any and
22 all documentation upon which Caltrans was relying in advance of the
23 responsibility hearing.

24 25. In addition, defendants VAN LOBEN SELS, GRIFFIN and
25 HOLLIS further determined, on or about November 14, 1994, that
26 Caltrans would characterize the work delineated by Contract No. 04-
27 147404 as a high priority and thus utilize an emergency informal
28 bidding process in which Caltrans and defendants, and each of them

1 would select the contractors who would be eligible to bid on the
2 work and Caltrans would reject all bids previously received in the
3 public bidding process.

4 26. By employing the informal bid process, the defendants,
5 and each of them, intentionally and effectively eliminated and
6 precluded LIONSGATE from any further participation upon Contract
7 No. 04-147404, although LIONSGATE had been the lowest responsible
8 bidder in an open and public bid upon this project.

9 27. LIONSGATE is informed and believes, and thereon alleges,
10 that it was the intention of Caltrans, and the defendants, and each
11 of them, to employ an informal bid process on all highway repair
12 and retrofitting projects in northern and central California area
13 through the end of the calendar year, 1994, and beyond, into the
14 calendar year 1995, which process would prevent and preclude
15 LIONSGATE from the opportunity to bid on future and further
16 projects for an indefinite period of time, and which actions are in
17 violation of state law and regulations, and the Legislative mandate
18 to award such public work projects to the lowest responsible
19 bidder.

20 28. On or about November 15, 1994, defendant GRIFFIN, with
21 the knowledge and approval of the remaining defendants, and each of
22 them, informed LIONSGATE that Caltrans would no longer provide
23 LIONSGATE with a hearing to determine whether LIONSGATE was a
24 responsible bidder because defendants, and each of them, had
25 determined that to provide such a hearing would "frustrate" the
26 Department's objective of completing certain projects before the
27 end of 1994.

28 29. On or about November 18, 1994, Caltrans awarded Contract

1 No. 04-147404 to another contractor, which bid was some \$80,000
2 higher than the bid submitted by LIONSGATE for the same work,
3 Caltrans having accepted only five bids from selected contractors,
4 some of whom had not participated in the initial, public bid
5 process.

6 Contract No. 10-435004

7 30. LIONSGATE had been the successful low bidder and had been
8 awarded the work for a project near the City of Fairfield, Solano
9 County, under Contract No. 10-435004.

10 31. During the course of performing the work under Contract
11 No. 10-435004, LIONSGATE became aware of certain circumstances
12 which affected its performance, including, but not limited to the
13 possible presence of toxic materials, including lead, at or near
14 the job site; that Caltrans had rejected LIONSGATE's cost reduction
15 incentive proposal; and that site conditions differing from those
16 presented in the original plans and/or bid materials were present.

17 32. LIONSGATE sought to obtain further information from
18 Caltrans regarding these matters, and when it was unable to do so
19 otherwise, on November 7, 1994, LIONSGATE made formal written
20 request for documentation from Caltrans under the California Public
21 Records Act, California Government Code Section 6254 directed to
22 Caltrans.

23 33. Defendants, and each of them, informed LIONSGATE, on or
24 about November 14, 1994, that a search of Caltrans' records for
25 materials pertaining to toxic materials at the specified locations
26 would be made, but otherwise indicated that such requests by
27 LIONSGATE lacked specificity, were burdensome, interfered with
28 ordinary business activity or were the subject of possible claims,

1 and that Caltrans and defendants, and each of them, would further
2 advise whether and when such documentation would be made available.

3 34. Lionsgate reiterated its request to Caltrans and
4 defendants, and each of them, for the specified documents sought
5 under the California Public Records Act on November 29, 1994,
6 indicating that documents maintained in the ordinary course of the
7 agency's business were disclosable public records under the Act,
8 regardless of any claims or litigation, and again requested
9 production of the documents.

10 35. Defendants, and each of them have failed and refused to
11 comply with these requests for the production of public documents.

12 Contract 04-133284

13 36. LIONSGATE had also been the successful low bidder on
14 Contract No. 04-133284 involving seismic retrofitting work.

15 37. During the course of performance on this Contract
16 LIONSGATE became aware of certain circumstances affecting its
17 performance pertaining to the installation of seismic bearings and
18 responsibility for connections pertaining to these bearings.

19 38. LIONSGATE sought to obtain further information from
20 Caltrans regarding these matters, and when it was unable to do so
21 otherwise, on November 22, 1994, LIONSGATE made formal written
22 request for documentation from Caltrans under the California Public
23 Records Act, California Government Code Section 6254 on its own
24 behalf and on behalf of subcontractors of LIONSGATE by letter
25 directed to Caltrans.

26 39. Defendants, and each of them, with the knowledge and
27 approval of the remaining other defendants, and each of them,
28 informed LIONSGATE on or about November 23, 1994, that they would

1 not produce the requested public records sought under the
2 California Public Records Act until a formal claim had been
3 commenced, and not until counsel for the parties had agreed upon an
4 exchange of documents; defendants, and each of them, have further
5 asserted that such documents were exempt from the Public Records
6 Act as pertaining to pending litigation.

7 40. Lionsgate reiterated its request to Caltrans and
8 defendants, and each of them, for the specified documents sought
9 under the California Public Records Act on November 29, 1994,
10 indicating that documents maintained in the ordinary course of the
11 agency's business were disclosable public records under California
12 Government Code Section 6254(b) regardless of any claims or
13 litigation, although no litigation was then pending, and again
14 requested production of the documents.

15 41. Defendants, and each of them have failed and refused to
16 comply with these requests for the production of public documents.

17 FIRST CAUSE OF ACTION

18 (Deprivation of Rights Under Color of State Law)

19 42. Plaintiff incorporates by reference Paragraphs 1 through
20 41, inclusive, of this Complaint, as though fully set forth herein.

21 43. Pursuant to the California State Contract Act, Public
22 Contract Code Sections 10100, et. seq., and in particular, Sections
23 10108, 10120, 10122, 10180, 10185 and State of California,
24 Department of Transportation Standard Specifications, 3-1.01, the
25 defendants, and each of them, as officials and/or employees of the
26 California Department of Transportation are required to award all
27 publicly bid contracts to the lowest responsible bidder or to
28 reject all bids.

1 44. Contracts Nos. 04-141304 and 04-147404 of Caltrans, were
2 contracts involving public works projects subject to the open,
3 public bidding requirements of the California Public Contract Code
4 and Standard Specifications, and were submitted to open, public
5 bids in accordance with California law and applicable
6 specifications.

7 45. Plaintiff, LIONSGATE, was the low bidder on both
8 Contracts Nos. 04-141304 and 04-147404.

9 46. As low bidder, and absent a rejection of all bids by
10 Caltrans, plaintiff LIONSGATE was entitled, as a matter of law, to
11 be awarded the work on these two projects, unless determined
12 disqualified or non-responsible by Caltrans.

13 47. Caltrans did not reject all bids on these two contracts,
14 but instead determined that LIONSGATE was a non-responsible bidder,
15 and awarded each of the contracts to the next lowest bidder.

16 48. LIONSGATE has a property interest in not being
17 arbitrarily rejected, debarred, disqualified or found non-
18 responsible on publicly bid contracts for which it was the low
19 bidder, including Caltrans Contracts Nos. 04-141304 and 04-
20 147404.

21 49. Defendants, and each of them, alone and in concert with
22 one another, have failed and refused to provide LIONSGATE with a
23 reasonable opportunity to refute or rebut the determination of non-
24 responsibility made against it on these two contracts.

25 50. The failure and refusal of defendants, and each of them,
26 to provide plaintiff with an opportunity to refute or rebut the
27 determination of non-responsibility with regard to Contracts Nos.
28 04-14304 and 04-147404 are acts which are arbitrary, capricious and

1 otherwise contrary to law and are in derogation of plaintiff's due
2 process rights under Title 42 of the United States Code, Section
3 1983, as acts depriving plaintiff of due process under color of
4 state law, and are further acts in derogation of the Fourteenth and
5 Fifth Amendments to the United States Constitution.

6 51. Defendants, and each of them, alone and in concert with
7 one another, have determined to characterize the work to be
8 performed under Contract No. 04-147404 as requiring immediate
9 and/or emergency remedial measures so as to invoke the informal
10 bidding process permitted by California Public Contract Code
11 Section 10122(a).

12 52. By characterizing the work under Contract No. 04-147404,
13 and further and future highway remedial work as an emergency within
14 the purview of Public Contract Code Section 10122(a), the work
15 represented by each such contract may be let through an informal
16 bid process in which the contractors permitted to bid are selected
17 by Caltrans, and by defendants, and each of them.

18 53. The work represented by Contract No. 04-147404 and other
19 future and further contracts for highway repairs of Caltrans, are
20 not work within the meaning of Section 10122(a) as not involving a
21 highway, bridge or other highway structure subject to failure or
22 the threat of imminent failure.

23 54. The defendants, and each of them, alone and in concert
24 with one another, have characterized the work required by Contract
25 No. 04-147404 and other further and future contracts, as falling
26 within the emergency repair provisions of Public Contract Code
27 Section 10122(a) with the implied and express intent of preventing
28 and precluding plaintiff from being awarded Contract No. 04-147404

1 and from participating further in the informal bidding process on
2 this contract and on further and future highway repair contracts
3 for an indefinite period of time.

4 55. The acts of the Defendants, and each of them, alone and
5 in concert with one another, have and continue to have the effect
6 of suspending, debarring or disqualifying plaintiff from bidding
7 and being awarded Caltrans' contracts if low bidder.

8 56. Pursuant to California Public Contract Code Section
9 10285.1, one may be suspended from bidding on public work or
10 services contracts for up to three years, only if that person has
11 been convicted of crimes involving fraud, bribery, conspiracy or
12 collusion.

13 57. Pursuant to California Public Contract Code Section
14 10285.2, even where one has been convicted of crimes which would
15 disqualify him from bidding on public contracts, such
16 disqualification cannot occur until a hearing has been held, after
17 notice, to determine whether the agency should suspend such person
18 and the duration of the suspension.

19 58. Neither plaintiff, LIONSGATE, nor any officer or
20 shareholder of plaintiff have been convicted of the crimes of
21 fraud, bribery conspiracy or collusion.

22 59. Defendants, and each of them, alone and in concert with
23 one another, have failed and refused to provide plaintiff with
24 notice and a hearing pursuant to California Public Contract Code
25 Section 10285.2, although the real and practical effects of the
26 actions of defendants, and each of them, is to suspend or debar
27 plaintiff from the opportunity to bid on public works contracts and
28 from being awarded public works contracts for which plaintiff was

1 and is the lowest responsible bidder.

2 60. Defendants, and each of them, have further acted to
3 deprive plaintiff of rights accorded it by the California Public
4 Records Act, Government Code Sections 6250, et. seq., by failing
5 and refusing to honor valid public records act requests from
6 plaintiff.

7 61. The failure and refusal of defendants, and each of them,
8 alone and in concert with one another, to honor valid public
9 records act requests from plaintiff, is and continues to be part of
10 a continuing pattern of conduct by defendants, and each of them, to
11 deprive plaintiff of statutorily protected rights and are acts,
12 performed under color of state law, which acts of defendants are
13 arbitrary, capricious or otherwise contrary to law.

14 62. That as a direct and proximate result of the conduct of
15 the defendants, and each of them, alone and in concert with one
16 another, the plaintiff has been injured by losing the benefit of
17 Contracts Nos. 04-141304 and 04-147404 in amounts not yet
18 determined but in excess of \$50,000, and has and shall suffer the
19 continued loss of future profits by being denied participation in
20 bidding for other and further public works contracts, due the acts
21 of defendants, and each of them, alone and in concert with one
22 another, which acts effectively disqualify, debar and/or otherwise
23 preclude plaintiff from bidding upon and from being awarded public
24 works contracts, and which acts further deny and deprive plaintiff
25 the right of access to public documents afforded all other persons,
26 without benefit of due process of law.

27 WHEREFORE, Plaintiff, LIONSGATE, prays for such relief as set
28 forth below.

SECOND CAUSE OF ACTION
(Injunctive Relief)

63. Plaintiff incorporates by reference Paragraphs 1 through 62, inclusive of this Complaint, as though fully set forth herein.

64. Defendants' award of the work for Contracts Nos. 04-147404 and 141304 to contractors other than Lionsgate was illegal, an abuse of discretion, and in excess of the Defendants' authority.

65. Defendants, and each of them, as officials and/or employees of CalTrans, have awarded and intend to award contracts for other seismic retrofit projects without utilizing sealed bid competitive bidding, open to all qualified contractors, as required under the Public Contract Code. No emergency or other justification exists for such actions.

66. Defendants' actions in flouting the requirements for competitive bidding have deprived and will continue to deprive LIONSGATE of the opportunity to bid on seismic retrofit work.

67. Accordingly, unless Defendants, and each of them, are enjoined from continuing to fail to follow competitive bidding requirements of the California Public Contract Code, and from continuing to deny and deprive LIONSGATE of its right to procedural due process by failing and refusing to provide LIONSGATE with notice and the opportunity to rebut adverse evidence when it is low bidder on publicly bid contracts, and from continuing to deny and deprive LIONSGATE of the right and access to public records pursuant to the California Public Records Act, plaintiff, LIONSGATE will suffer grave and irreparable harm for which it has no adequate remedy at law.

68. Damages are an inadequate remedy as they can not fully

1 compensate LIONSGATE from being denied and deprived of the
2 opportunity to bid on and be awarded public works projects, from
3 being denied and deprived of its due process right to have an
4 opportunity to rebut or refute adverse evidence, or would require
5 LIONSGATE to engage in a multiplicity of lawsuits. Lionsgate
6 already has suffered grave and irreparable harm in connection with
7 Defendants' award of the projects represented by Contract Nos. 04-
8 147404 and 04-141304 to other contractors.

9 69. Unless this Court grants injunctive relief, the Court's
10 determinations in this action may be rendered meaningless.
11 Injunctive relief therefore is necessary to preserve the Court's
12 jurisdiction.

13 70. Injunctive relief further is required to vindicate the
14 public's compelling interest in strict compliance with competitive
15 bidding requirements for state agency construction projects, to
16 insure that state officials and employees comply with due process
17 requirements, and to prevent harm to the public from Defendants'
18 illegal circumvention of competitive bidding requirements.

19 WHEREFORE, Plaintiff, LIONSGATE requests judgment as set forth
20 below.

21 THIRD CAUSE OF ACTION
22 (Action for Declaratory Relief)

23 71. LIONSGATE incorporates herein as if fully set forth the
24 allegations of paragraphs 1 through 70 of this Complaint.

25 72. There is an actual, present, justiciable controversy
26 between LIONSGATE, on the one hand, and Defendants, and each of
27 them, on the other.

28 73. LIONSGATE contends:

1 a. That it submitted the lowest responsive bid for the
2 projects represented by Contracts Nos. 04-147404 and 04-141304 and
3 was and is a qualified, responsible contractor;

4 b. That Defendants, and each of them, have awarded each
5 of said contracts to bidders other than LIONSGATE although they are
6 obligated by law to award the contract to LIONSGATE, unless
7 Defendants rejected all bids and rebid the projects using formal
8 sealed bid competitive bidding open to all qualified contractors;

9 c. That in violation of law, in an abuse of discretion,
10 and in excess of their authority, Defendants, and each of them,
11 have awarded the subject contracts to contractors other than
12 LIONSGATE, without having rebid the project using formal sealed bid
13 competitive bidding open to all qualified contractors;

14 d. That the award of contracts for the two projects for
15 which LIONSGATE was the lowest responsible bidder, to persons other
16 than LIONSGATE are actions which are illegal and void as contrary
17 to law and public policy;

18 e. That as a consequence, no public moneys may be used
19 to pay for work on these projects which is, shall or may be
20 performed by a contractor other than LIONSGATE;

21 f. That the acts of the Defendants, and each of them,
22 alone and in concert with one another, in failing and refusing to
23 provide LIONSGATE with any opportunity to respond, rebut or refute
24 any evidence which forms the basis for Defendants' determination
25 that LIONSGATE is not a responsible bidder, is a denial of required
26 procedural due process, and such denial on the part of Defendants,
27 and each of them, are acts contrary to law and are acts which
28 deprive LIONSGATE of due process rights under color of state law in

1 violation of Title 42 of the United States Code, Section 1983 and
2 are in violation of the Fifth and Fourteenth Amendments to the
3 United States Constitution;

4 g. That no circumstances exist justifying any departure
5 from formal sealed bid competitive bidding, nor for denying and
6 refusing LIONSGATE the opportunity to rebut any adverse evidence
7 regarding the contention that it is a non-responsible bidder, nor
8 the failure and refusal of Defendants, and each of them, to comply
9 with Public Records Act requests.

10 74. LIONSGATE is informed and believes, and on that basis
11 alleges, that defendants, and each of them, deny the contentions
12 set forth in the preceding paragraph.

13 75. A judicial declaration is therefore necessary and
14 desirable, so that the parties may know their respective rights and
15 obligations, and to avoid a multiplicity of actions.

16 WHEREFORE, LIONSGATE CORPORATION prays for judgment as
17 follows:

18 1. For general damages in an amount according to proof;

19 2. For punitive damages in an amount appropriate to punish
20 defendants, and each of them individually, for their wrongful
21 conduct and to set an example for others;

22 3. For a temporary restraining order, preliminary injunction
23 and permanent injunction that enjoins Defendants, and each of them:

24 a. from awarding any construction contract for seismic
25 retrofitting work, unless the contract is awarded in strict
26 conformity with formal sealed bid competitive bidding procedures,
27 open to all qualified contractors including plaintiff, in
28 accordance with Section 10122 of the Public Contract Code (except

1 in the case of a true emergency involving the physical failure of
2 a bridge or highway structure or the actual, immediate threat of a
3 failure of a bridge or highway structure within the period of the
4 order); and

5 b. if any such contract seismic retrofitting
6 construction contract has been awarded by Defendants within the
7 within 90 days prior to the filing of this action through a
8 procedure other than formal sealed bid competitive bidding
9 procedures, open to all qualified contractors including plaintiff,
10 in accordance with Section 10122 of the Public Contract Code
11 (except in the case of a true emergency involving the physical
12 failure of a bridge or highway structure or the actual immediate
13 threat of such failure):

14 i. from authorizing work any work to proceed in
15 connection with any such contract;

16 ii. from permitting further work after the date of
17 this order by any person on such a contract; and

18 iii. from disbursing any funds as payment for work
19 performed on any such contract.

20 4. For an order directing that the Defendants immediately
21 provide plaintiff with a full and fair opportunity to respond and
22 rebut any evidence regarding plaintiff's responsibility as a
23 qualified bidder upon public work projects;

24 5. For an order directing that the Defendants immediately
25 comply with all Public Records Act requests of plaintiff;

26 6. For a judicial declaration of the rights and obligations
27 of the parties, including without limitation, a declaration:

28 a. That Lionsgate submitted the lowest responsive bid

1 for Contracts Nos. 04-147404 and 04-141304;

2 b. That if Defendants in fact awarded such contracts, to
3 contractors other than plaintiff, that Defendants, and each of
4 them, acted contrary to law and in derogation of their duties and
5 obligations as officials and/or employees of Caltrans and have
6 breached the due process rights of LIONSGATE;

7 c. That if Defendants, and each of them, continue to
8 designate future and further retrofit projects as emergencies and
9 let such projects on an informal bid process, they are acting in
10 derogation of their duties and obligations as officials and/or
11 employees of Caltrans, in violation of law, in an abuse of
12 discretion, and in excess of their authority, and that such
13 conduct, under color of state law, is in violation of the due
14 process rights of plaintiff;

15 d. That the acts of Defendants, and each of them, denying
16 and refusing to comply with the Public Records Act requests of
17 Plaintiff are acts done under color of state law which violate the
18 due process and equal protection rights of plaintiff.

19 7. For attorney's fees, as permitted by law;

20 8. For costs incurred herein; and

21 //

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1 9. For such other and further relief as the Court may deem
2 just and proper. Dated: February 3, 1995

3
4 SIMPSON, AHERNE & GARRITY
Professional Corporation

5
6
7 By 

Paul A. Aherne
Claudia J. Martin
Attorneys for Plaintiff
LIONSGATE CORPORATION

B/S CHAIR

BD OF SUPV

CLEAK

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RCVD
BD OF SUPERVISORS
CO OF SANTA CLARA

ROBERT L. LESLIE

95 AUG 28 P 2:38

August 25, 1995

Roads and Airport Department
Highway & Bridge Design
County of Santa Clara
Attention: Gamini Rajapakse, Project Engineer
3333 North First Street
San Jose, California 95134

FedEx

Re: Bid Protest of:
Seismic Retrofit & Widening of Sunnyvale O.H.
Lawrence Expressway Project.

Dear Mr. Rajapakse:

We are counsel to Granite Construction Company and this letter is in response to the letter of August 17, 1995 from Lionsgate's attorney, Paul Aherne.

1. Klotz Engineering. The bonafides of Klotz Engineering as a regular commercial supplier, rather than a broker who does only DBE/MBE work, was questioned by Granite. Lionsgate does nothing to dispel this concern, such as furnishing an affidavit detailing the dollars of structural steel Klotz has furnished on a commercial, non DBE/MBE basis, versus the dollars of steel furnished as a DBE/MBE.

2. Bid Form 12. Lionsgate's claim in its attorney's August 17, 1995 letter, that it was found non-responsible on only one project with the State of California Department of Transportation, is false as shown by the enclosed court papers:

a. Lionsgate was found non-responsible on Caltrans Contract No. 04-141904. A copy of the administrative law judge's twelve page opinion was attached to Granite's letter to you of August 4, 1995. (Encl. 1.) Lionsgate sought judicial review of this finding of non-responsibility in the California Superior Court, Sacramento County, Case No. 378623 filed July 5, 1995. (Encl. 2.) The Superior Court found there was substantial evidence that Lionsgate was non-responsible and ruled against

cc: ALVARADO
GONZALES
McKENNA

Bill ANDERSON, Co Counsel

Districts

I

II

III

IV

V

rec'd

Lionsgate. (Encl. 3.) The decision of the Sacramento County Superior Court in Action No. 378623 denying Lionsgate's petition, is final. Contrary to the assertion by Lionsgate, this finding of non-responsibility is not being contested in the United States District Court.

b. In addition, according to Lionsgate's own complaint, Lionsgate was found non-responsible on Caltrans Contracts No. 04-141304 and 04-147404 on August 26, 1994 and November 7, 1994, respectively. (Encl. 4.) Lionsgate sued in U.S. District Court, Eastern District of California on March 20, 1995, Case No. CIV-S-95-517 DFL GGH, seeking review of these two findings of non-responsibility. (Encl. 3.) This action is still pending.

c. Lionsgate's false representations to you that it has been found non-responsible on only one project with Caltrans and that that finding is being contested in the U.S. District Court, confirm Lionsgate's lack of responsibility.

d. Bid Form 12 provided:

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

...

4.) 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.

Lionsgate failed to disclose to the County on Bid Form 12 that Lionsgate Corporation had a civil judgment rendered against it by a court of competent jurisdiction in a matter involving official misconduct within the last 3 years, Case No. 378623 in the California Superior Court, Sacramento County. (Encls. 2 & 3.) The official misconduct is chronicled in the twelve page discussion of the administrative law judge attached to the petition Lionsgate filed in Sacramento Superior Court. (Encl. 2.) It appears from these court papers that Lionsgate provided false information in responding negatively to Bid Form 12, and should be found non-responsive and non-responsible.

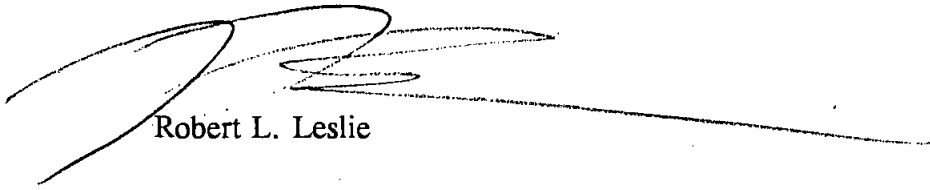
3. Lionsgate's comments about Granite are not correct, but more importantly it is Lionsgate's bid that is the subject of this protest, not Granite's. Any concerns about

August 25, 1995
Page 3

Granite's bid are properly addressed after the rejection of Lionsgate's bid, and at that time should the County need any information Granite would be pleased to provide it.

Granite submits it would be in the best interests of the County of Santa Clara to reject Lionsgate's bid and award to Granite.

Sincerely,



Robert L. Leslie

encls.

RLL/kyn
GRASJ7898

cc (w/encls.) (FedEx)

- ✓ Phyllis Perez, Clerk of the Board of Supervisors
- Mike Honda, Chairman, County Board of Supervisors
- Jim Beal, County Supervisor
- Paul A. Aherne

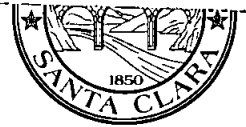
County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134

RCV
BD OF SUP
CO. OF SANTA CLARA

THIS RELATES TO:
AGENDA ITEM 80
MEETING OF August 29, 1995



95 AUG 25 P3:55

DATE: AUGUST 25, 1995

TO: CLERK OF THE BOARD OF SUPERVISORS

FROM:  ROLLO PARSONS, BRANCH MANAGER
DESIGN AND CONSTRUCTION

SUBJECT: SEISMIC RETROFIT AND WIDENING OF SUNNYVALE O.H. AT
LAWRENCE EXPRESSWAY BRIDGE NO. 37C-198 FEDERAL
PROJECT NO. DPC-0040(001), STPLNZ-5937(019)

Item No. 80 on the Board of Supervisors Agenda for August 29, 1995 at 11:30 a.m. is to be postponed to September 19 at 10:30 a.m. so that County Counsel will have additional time for investigation of the bid protest.

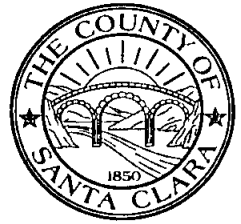
ORIGINAL

AUG 29 1995
8-29-95

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134



MEMORANDUM

80
DATE: August 15, 1995

TO: Erline Jones
Clerk of the Board Office

FROM: Gamini Rajapakse
Project Engineer

CR

Subject: Reschedule Award of Construction Contract
Seismic Retrofit and Widening of Sunnyvale O.H at Lawrence Expwy.
Federal Project No. DPC-0040(001), STPLNZ-5937(019)
Bridge No. 37-C-198

Granite Construction Company of San Jose, Second low bidder to the subject project has submitted a bid protest on August 4, 1995. We request the project award to be reschedule from agenda August 29 to September 19, 1995. This is necessary to investigate and give the low bidder, Lionsgate Corporation, adequate time to respond to the protest.

DUE 13y
SEP 1st

Bids were opened on July 27, 1995 for the subject project. Six (6) bids were received, Lionsgate Corporation of Alamo submitted the low bid. Granite Construction Company submitted the second low bid. Award of contract was scheduled to be August 15, 1995 and was changed to August 29, 1995.

Please call me if you have any questions at 321-7144

CC:

CLF, RBP, JRR, MLG, JME, TH
HLH, GWS, SJB, RLH - Construction
Eleanore Solarez - Equal Opportunity
Record Mgmt.

H-95-08-0035
PCA # C3475

8-18-95
Plz keep original
date on Aug 29.
Rollo Parsons
321-7154

Board of Supervisors: Michael M. Honda, Blanca Alvarado, Ron Gonzales, James T. Beall Jr., Dianne McKenna
County Executive: Richard Wittenberg

ORIGINAL

SEP 19 1995
HHC 9-0-1005

CATEGORIES AND TYPES OF SERVICES

<u>Category</u>	<u>Examples of Service</u>
1. Construction:	Building, Roads, Remodeling
2. Rental, Lessor:	Land, Building, Concessions
3. Rental, Lessee:	Space, Equipment
4. Professional Service:	Architectural, Consulting, Engineering, Legal, Audit, Bond Counsel
5. Citizen Services: Purchased by County	Mental Health, Alcoholism Counseling Training, Homemaker Services, Youth Science, Art Council
6. Citizen Services: Provided by County	Sheriff's Patrol, Communications
7. Maintenance:	Equipment Maintenance
8. Miscellaneous: Services	Ongoing with no established expiration; Blue Cross, CDS, Banking Service

Methods of Awarding Agreements

- | | |
|------------------------|---------------------|
| 1. RFP | 5. Limited Bid |
| 2. Competitive Bid | 6. Emergency |
| 3. Sole Source | 7. Other (Describe) |
| 4. Selection Committee | |

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134



MEMORANDUM

DATE: August 8, 1995

TO: Erline Jones
Clerk of the Board of Supervisors

FROM: Gamini Rajapakse 
Project Engineer
Roads & Airports Department

Subject: Reschedule Award of Construction Contract
Seismic Retrofit and Widening of Sunnyvale O.H at Lawrence Expwy. ,
Federal Project No. DPC-0040(001) , STPLNZ-5937(019)
Bridge No. 37-C-198

Granite Construction Company of San Jose, 2nd. low bidder has submitted a bid protest on August 4, 1995 (attached). We request the project award to be reschedule from agenda date, August 15 to August 29, 1995, to respond to this protest.

Bids were opened on July 27, 1995 for the subject project. Six (6) bids were received, Lionsgate Corporation of Alamo, submitted the low bid. Granite Construction Company submitted the second low bid. Award of contract is scheduled to be August 15, 1995.

Please call me if you have any questions at 321-7144

Attachments

CC: w/o Attachment

CLF, RBP, JRR, MLG, TH
HLH, GWS, SJB - Construction
Eleanore Solarez - Equal Opportunity

w/ Attachment

Record Mgmt.

H-95-08-0010
PCA # C3475

DEPARTMENT OF TRANSPORTATION

BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444



June 16, 1995

04-SCI-0-CR
DPC-0040(001)
Sunnyvale SPRR

Mr. Gamini Rajapakse
Project Engineer
Roads & Airports
Santa Clara County
3333 North First Street
San Jose, CA 95134

Dear Mr. Rajapakse:

We are pleased to confirm our verbal notification that the PS&E for the above-referenced Federal aid project has been approved.

You may proceed with advertising the project for bids.

The Special Provisions require submittal of DBE information before contract award. If the contract award is to other than the low bidder, we will need this information for all the bidders considered.

A minimum 21-day advertisement period is required, beginning with publication in a local newspaper of general circulation. All addenda must be pre-approved by the State, and concurrence must be received prior to award of the contract or the rejection of bids.

It is estimated that quality control testing by our Materials and Research Department will cost \$ 2,000.00 for your project. We will send you a bill to cover the testing cost, and make arrangements to schedule the work. These charges are federally reimbursable upon submittal of proper documentation and will be charged under construction engineering.

When the project has been advertised, please send us one (1) copies of the signed Plans and Special Provisions. Immediately upon advertising, inform us of the dates of advertising and bid opening.

Sincerely,

JOE BROWNE
District Director

By

Robert Wu
Local Assistance Area Engineer

H95060060

FACSIMILE

DEPARTMENT OF TRANSPORTATION

District 4

LOCAL ASSISTANCE

111 Grand Avenue, Oakland

DATE: 7-27-95

408-955-0898

TO: FAX NUMBER_

Gamini Rajapakse

Name _____

Department _____

* Sunnyvale SPRR Project

Message:

As of 7-1-95, you will not need Caltrans
concurrence to award your contract to
the low bidder.

After the contract is awarded, we need
the attached info from you.

Thank you. Please call if you have any questions.

TOTAL PAGES INCLUDING COVER SHEET 3

FROM:

Bob

Robert Wu

Local Assistance Area Engineer

Santa Clara Co.

Tel: 510-286-5234

ATSS: 8-541-5234

FAX 510-286-5229

BID SHEET

LAWRENCE EXP SEISMIC/WIDENING
ENGINEER: GAMINI 321-7144

BID DATE: 07/27/95

DAN CAPUTO

FOUNDATION CONSTR

GRANITE CONSTR CO

KULCHIN & CONDON & ASSOC

* LIONSGATE CORP

MALCOLM DRILLING

NOVA COATINGS

PENHALL COMPANY

RGW CONSTR

SALINAS REINFORCING

SERRANO & CONE

STROER & GRAFF INC

SUPERIOR GUNITE

THE DS BROWN CO

VALENTINE CORP

WEST COAST BRIDGE

WP YOUNG

\$ 2,090,443.45

\$ 1,948,700.00

\$ 2,113,605.00

\$ 2,175,840.00

\$ 2,464,875.00

\$ 2,367,775.00

ENGINEER'S ESTIMATE:
REASONABLE BID AMOUNT:
DATE OF AWARD

Aug 15, 1995

\$2,500,000

\$2,750,000

ORIGINAL

County of Santa Clara

Roads and Airports Department

3333 North First Street
San Jose, California 95134



July 26, 1995

To: Clerk of the Board of Supervisors

Subject: Bid Opening - July 27, 1995

Seismic Retrofit and Widening of Sunnyvale Overhead Bridge on Lawrence Expressway

The Engineer's Estimate for subject project is \$ 2,500,000.00 .

In accordance with the contract documents, the reasonable bid amount is
\$ 2,750,000.00 . This amount is 10% above the Engineer's Estimate.

The reasonable bid amount is to be announced at the time of the bid opening after
the Engineer's Estimate is read and before the bids are opened.

Christine Fischer
Director

rtj

COUNTY OF SANTA CLARA
CALIFORNIA

RCVD
BD OF SUPERVISORS
CO. OF SANTA CLARA

OFFICE OF THE BOARD OF SUPERVISORS
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-4321

MEMBERS OF THE BOARD

Michael M. Honda, District 1
Blanca Alvarado, District 2
Ron Gonzales, District 3
James T. Beall, District 4
Dianne McKenna, District 5

95 JUN 22 All : 45

June 19, 1995

Santa Clara Valley Weekly
P. O. Box 755
Santa Clara, CA 95052

Attention: Kenda - Legal Department

Dear Santa Clara Valley Weekly:

SUBJECT: PUBLICATION OF ENCLOSED NOTICE TO BIDDERS
REPRINTS: NONE

Please publish the enclosed Notice to Bidders twice - once on Wednesday, June 28 and again on Wednesday, July 5, 1995.

The enclosed relates to construction for Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge No. 37C-198).

Please send THREE copies of the Bill and Two Affidavits of Publication to this office, attention Sue Griffiths, immediately following publication.

Very truly yours,

Erline Jones
Erline Jones
Deputy Clerk

Enclosure
cc: Sue Griffiths
- GSA Capital Programs

RETURN CONFIRMATION REQUIRED (Fax #298-8460)

BY: Kenda Reyes
DATE: 6/19/95

Page 1 of 2

Published

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the County of Santa Clara will receive sealed bids until 2:00 p.m., Thursday, July 27, 1995, in the Office of the Clerk of the Board of Supervisors, County Administration Building, 70 West Hedding Street, 10th Floor, San Jose, CA 95110 for construction of Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge No. 37C-198).

Instructions to bidders and contract documents, including drawings and technical specifications, may be obtained or examined at 3331 N. First Street, Building B, 2nd. Floor, San Jose, CA 95134-1906, (408) 321-5730.

Inquiries concerning this bid shall be directed to Gamini Rajapakse, Project Manager, at (408) 321-7144.

By order of the Board of Supervisors of the County of Santa Clara, State of California, on June 13, 1995.

BOARD OF SUPERVISORS
PHYLLIS PEREZ, CLERK OF THE BOARD

Phyllis A. Perez

PP:ej

Not Published

SECTION 100 NOTICE TO BIDDERS

Notice is hereby given that sealed bids will be received by the Clerk of the Board of Supervisors of the County of Santa Clara, State of California in the Office of the Clerk of the Board of Supervisors, County Government Center, 10th Floor, East Wing, 70 West Hedding Street, San Jose, California 95110, up to

2:00 p.m. o'clock Thursday July 27, 1995 for the Seismic Retrofit and Widening of Sunnyvale (SPRR) Overhead at Lawrence Expressway (Bridge # 37C-198)

at which time bids will be publicly opened and read at the time and place as stated above, by the Clerk of the Board of Supervisors.

The bridge work to be done consist, in general, Seismic Retrofit improvements and widening of an existing bridge over Peninsula Corridor Joint Powers Board (PC-JPB) & Southern Pacific Transportation Company (SPTC) railroad. The retrofit work consist of constructing reinforced concrete infill in all piers, 60" C.I.D.H piles at the abutments, reinforced concrete thrust walls at the bent footings and retrofitting diaphragms. The widening work consist of driving piles, widen existing bent on pile cap, add two (2) steel plate I-girders with reinforced concrete deck, construct side walks and concrete barriers.

DBE GOAL FOR THIS PROJECT:

The County of Santa Clara has established the following goal for Disadvantaged Business Enterprises (DBE) participation for this project

Disadvantaged Business Enterprises: 17 Percent.

THIS PROJECT IS SUBJECT TO THE "BUY AMERICA" PROVISIONS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.

Wage Rates

Minimum wage rates for this project as predetermined by the Secretary of labor are set forth in the special provisions. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and prevailing wage rates determined by the Department of Industrial Relations for similar classifications of labor, the Contractor and his subcontractors shall pay not less than the higher wage rate.

Pursuant to Section 1773 of the Labor Code, the general prevailing rate of wages in the county in which the work is to be done has been determined by the Director of the Department of Industrial Relations, which rates are filed in the office of the Clerk of the Board of Supervisors, incorporated herein by reference and copies of which are available to any interested parties on request. These wage rates appear in the Department of Transportation publication entitled General Prevailing Wage Rates dated: 09/09/1994.

Future effective wage rates which have been predetermined and are on file with the Department of Industrial Relations are referenced but not printed in said publication.

Project Number

This contract is subject to approval by the Federal Highway Administration (FHWA). The bidders shall show the FHWA/ISTEA project number DPC-0040 (001) and STPLNZ 5937(019) all correspondence.

Substitution of Securities

In accordance with Government code Section 4590, the Contractor may substitute securities for any money withheld under Section 9.07 "Progress Payments" of the county Standard Specifications. At Contractor's request and expense, securities equivalent to the amount withheld shall be deposited with the Owner, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the Contractor. Upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

Time of Completion

The time limit for the completion of work is 220 working days commencing on the 20th day following Notice of Award by the County. The scope of work, completion time, and the amount of liquidated damages for each increment of work are set forth in Special Provisions Section 104.

Plans and Bidding Documents

Project plans and bidding documents may be acquired at Building B, Second Floor, 3331 North First

Street, San Jose, California 95134, upon payment of \$ 100.00 per set.

A copy of the Santa Clara County Standard Specifications may be secured in Building B, Second Floor, 3331 North First Street, San Jose, California 95134, upon payment of \$10.00.

Bid Submittal

Executed Payment Bond, Performance Bond, agreement and Certificate of Insurance are required to be filed and approved by the Board of Supervisors prior to the issuance of the Notice to Proceed.

Each bid must be accompanied by cash, a certified or cashier's check, or a bidder's bond in the sum of not less than 10% of the total aggregate of the bid, and the checks or bond shall be made payable to the order of the County of Santa Clara.

All bids shall be submitted in the forms furnished in these Contract Documents.

A report of the names of all bidders and the amounts of each will be made by the Clerk of the Board of Supervisors at a regular meeting of the Board of Supervisors. The date of the regular meeting will be announced at the bid opening.

This contract is subject to approval by the Santa Clara County Board of Supervisors prior to award. The Board of Supervisors of Santa Clara County reserves the right to reject any and all bids or to waive any errors or discrepancies.

Contractor License

At the time this contract is awarded, the contractor shall possess either a Class A License or a combination of the following licenses: Class C-8, C-12, and C-50.

Pre-Bid Opening Conference

A Pre-Bid Opening Conference will be held on July 18, 1995 at 10:00 am

in conference room number B225 of the Santa Clara County offices located at 3331 North First Street, Building B, San Jose, California 95134. Representatives of the County will be present to discuss:

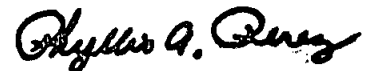
- Requirements regarding the participation of Disadvantaged Business Enterprises.
- Affirmative Action/Equal Employment Opportunity Requirements, and
- Coordination of work to be performed.
- Pertinent contract requirements and bid forms.

This meeting is to inform bidders and potential subcontractors of subcontracting and material supply opportunities. Bidders' attendance at this meeting may be one consideration of the reasonable good-faith efforts, set forth in Section 102-2.01 "Award of Contract", made to obtain Disadvantaged Business Enterprise participation goals.

Bidders should have fully inspected the project site in all particulars and become thoroughly familiar with the terms and conditions of the Contract Documents and local conditions affecting the performance and costs of the work prior to this conference.

Bids are required for the entire work described herein. This contract is subject to state contract nondiscrimination and compliance requirements.

By order of the County of Santa Clara, State of California, on June 13, 1995.



Clerk of the Board of Supervisors
PHYLLIS A. PEREZ

ERLINE - I have
TO: Some info
Date: on 6/1/85 Time: #85

WHILE YOU WERE OUT

OF: Gami
Sule / S Clara ←
Phone:

- | | |
|---------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> Telephoned | <input type="checkbox"/> Please Call Back |
| <input type="checkbox"/> Was Here | <input type="checkbox"/> Will Call Again |
| <input type="checkbox"/> Wants to See You | <input type="checkbox"/> Rush |
| <input type="checkbox"/> Returned Your Call | |

MESSAGE:

don't have CALTRANS
cert yet

will call when ready
to publish NOTICE TO
BIDDERS.

SIGNED

A. 6/1/2

County of Santa Clara

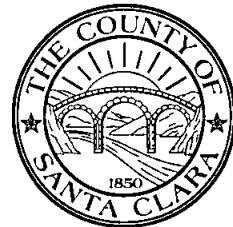
Roads and Airports Department

3333 North First Street
San Jose, California 95134

Approved Accepted Adopted Denied Presented

BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
Phyllis A. Perez, Clerk of the Board

By Erlene Jones
Deputy Clerk
Date: JUN 13 1995



TRANSMITTAL MEMORANDUM

Page 1 of 3

Prepared by: Gamini Rajapakse

S.D. 3

Reviewed by: Jim Randall

Submitted by: Rollo Parsons

Date: June 5, 1995

COUNTY BOARD OF SUPERVISORS: Agenda Date: June 13, 1995 Item No. _____

FROM: Christine Fischer, Director
Roads and Airports Department

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

RECOMMENDED ACTION:

Approve and authorize the advertisement of the contract documents for the seismic retrofit and widening of Sunnyvale Overhead Bridge (Br. 37C-198) on Lawrence Expressway at Caltrain Lawrence Station pending Right of Way Certification from Caltrans.

FISCAL IMPLICATIONS:

There is no fiscal impact to the County General Fund. Eighty percent (80%) of the total project cost will be reimbursed by Federal/State Demonstration Program Funds with Local Seismic Retrofit Program Funds reimbursing the retrofit work one hundred percent (100%). The remaining twenty percent (20%) of the Demonstration Program funds will be local Road Funds.

Sufficient funds for this project are budgeted in the current budget line items 0023-6435-2900 Commuter Lane Development, and 0023-6435-2910 Bridge Seismic Retrofit Program.

It is against County policy to publish the engineer's estimate prior to the project bid opening.

CONTRACT HISTORY:

The subject contract documents have been reviewed by Caltrans, Southern Pacific Transportation Company (SPTC), the cities of Santa Clara and Sunnyvale, and the Peninsula Corridor Joint Powers Board.

ORIGINAL

JUN 13 1995

DATE: June 5, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 13, 1995

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

(PC-JPB) during the design stage. Caltrans has reviewed the final contract documents and granted project approval pending Right of Way Certification by Caltrans. This early action is being taken to keep this project on schedule during the period of time allocated for the Board of Supervisor's June 1995 budget sessions.

The Lawrence Expressway HOV lane project has been environmentally cleared by an Environmental Assessment with a finding of no significant impact under the National Environmental Policy Act (NEPA) and an initial study with a negative declaration under the California Environmental Quality Act (CEQA).

The Disadvantaged Business Enterprise (DBE) goal is 17%.

REASONS FOR RECOMMENDATION:

Approval of these contract documents and authorization to advertise the project will allow competitive bids to be submitted for award of the construction contract. This is the last major bridge construction contract for completion of the Lawrence Expressway HOV lane project.

Construction of the improvements as specified in the contract documents will widen and upgrade the bridge over PC-JPB Caltrain mainline tracts and SPTC spur line tracks to the current seismic design criteria and provide for additional traffic lanes for use by the high occupancy vehicles (HOV) on Lawrence Expressway.

BACKGROUND:

The Lawrence Expressway HOV Lane Program includes the construction of two additional lanes on Lawrence Expressway between State Route 237 in the north and Mitty Way in the south. To accommodate the HOV lanes the bridge structure at the subject location is required to be widened. Seismic retrofitting is part of the project.

In 1991 the Lawrence Expressway HOV Project was appropriated 10.1 million in Federal Highway Administration (FHWA) , Intermodal Surface Transportation Efficiency Act (ISTEA) funds. Local matching funds are shared by the cities of Sunnyvale and Santa Clara and the County. On April 29, 1994 the State provided notice that \$1,616,000 additional funds had been allocated for seismic retrofit of the three bridges to be widened for this HOV lane project. This bridge is one of the three bridges.

DATE: June 5, 1995

COUNTY BOARD OF SUPERVISORS AGENDA DATE: June 13, 1995

SUBJECT: CONTRACT DOCUMENTS FOR SEISMIC RETROFIT AND WIDENING OF
SUNNYVALE OVERHEAD BRIDGE ON LAWRENCE EXPRESSWAY

Technical Advisory Committee (TAC) , consisting of members from the cities of Sunnyvale and Santa Clara, Caltrans and the Roads and Airports Department of the County of Santa Clara has been formed for this HOV lane project. This TAC committee meets monthly to oversee the HOV lane project in an advisory role.

STEPS FOLLOWING APPROVAL:

The Clerk of the Board of Supervisors shall take the following actions:

1. Publish the advertisement of the project upon approval by Caltrans of the Right of Way certification.
2. Forward a copy of the approved transmittal and proof of publication to Gamini Rajapakse Project Manager at Roads & Airports Department, 3333 North First Street, Building A, San Jose, CA 95134.
3. Set the bid opening date for Thursday, July 27, 1995.

Attachments

cc: B. Mesusan, J. Lee, Fiscal Resources
A. Hodson, Bob Wu(Caltrans, Oakland Office)
J.R. Randall/ Gamini Rajapakse, Project Manager
M. Griffis, Program Manager
Lawrence Expressway file
Records Management

COUNTY OF SANTA CLARA

ROADS AND AIRPORTS DEPARTMENT

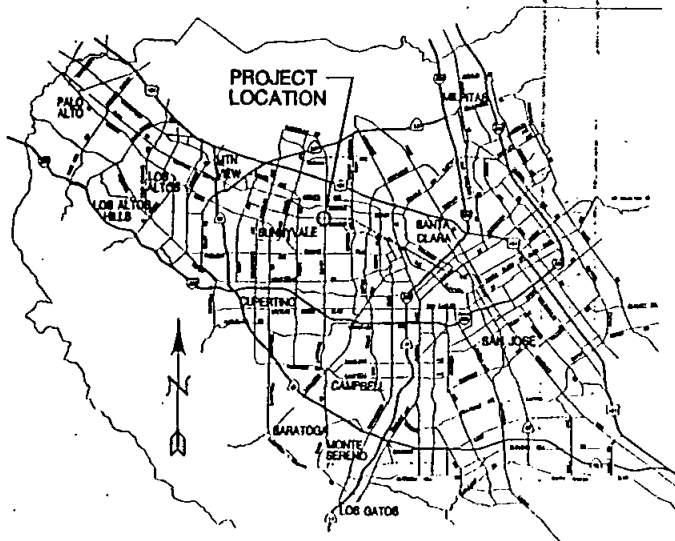
PLANS FOR SEISMIC RETROFIT AND WIDENING OF SUNNYVALE (SPRR) OVERHEAD

AT LAWRENCE EXPRESSWAY

(BRIDGE NO. 37C-198)

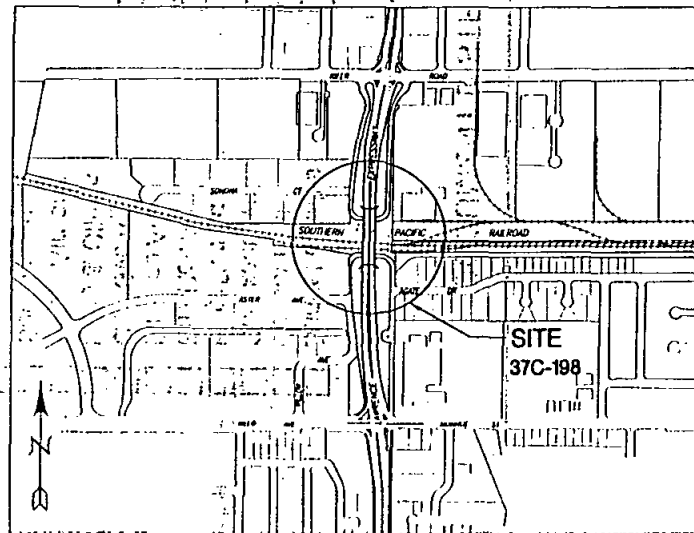
TO BE SUPPLEMENTED BY STATE STANDARD PLANS DATED JULY 1992

FEDERAL PROJECT NO: DPG-0040(001) DEMONSTRATION HOV LANE PROJECT
STPLNZ-5937(019) SEISMIC RETROFIT PROJECT



LOCATION MAP

1" = 2.5 Miles



SITE PLAN

1" = 500'

INDEX OF SHEETS

1. TITLE SHEET
2. AERIAL PLAN & R/W
3. GENERAL PLAN
4. CONSTRUCTION STAGING PLAN NO. 1
5. CONSTRUCTION STAGING PLAN NO. 2
6. TRAFFIC PLAN
7. FOUNDATION PLAN
8. ABUTMENT DETAILS NO. 1
9. ABUTMENT DETAILS NO. 2
10. ABUTMENT RETROFIT - 60" C.I.D.H.
11. BENT DETAILS
12. BENT RETROFIT DETAILS
13. BENT FOOTING RETROFIT - THRUST WALL
14. STEEL GIRDER DETAILS NO. 1
15. STEEL GIRDER DETAILS NO. 2
16. DECK REINFORCEMENT
17. SLOPE PAVING PLAN & DETAILS
18. EXCAVATION SHORING DETAILS
19. ELECTRICAL DETAILS
20. LOG OF TEST BORINGS NO. 1
21. LOG OF TEST BORINGS NO. 2

Note:
The Contractor shall possess the Class (or Classes) of license(s) as specified in the Special Provisions of the time this contract is awarded.

100%

SANTA CLARA COUNTY DEPARTMENT OF ROADS AND AIRPORTS

SEISMIC RETROFIT AND WIDENING
SUNNYVALE (SPRR) O.H./LAWRENCE EXP'W

TITLE SHEET



G.R. MAY 1995
R.K. MAY 1995
J.A.F. MAY 1995



DOCUMENT DISTRIBUTION

6-13-95

Meeting Date

85

Item Number

- ☐ Budget & Anlys
- ☐ Co Counsel
- ☐ Co Executive
- ☐ Emp Svc Ag
- ☐ Env Res Ag
- ☐ Finance Ag
- ☒ Gen Svc Ag
- ☐ Hosp & Clinics
- ☐ Rds & Airports
- ☐ Soc Svc Ag
- ☐ _____
- ☐ _____

- ☐ Contractor
- ☐ Muni Code
- ☐ Newspaper:

- ☐ _____
- ☐ _____
- ☐ _____

- Pony ☐
- Mail ☐
- Fax ☐
- Pick-Up ☐

Admin & Capital Programs

Ernie Jones
Processed By

6-22-95
Date