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December 20, 2013

***Via Hand Delivery
& Email kbroughton@napasan.com***

Napa Sanitation District
Attn. Kyle Broughton, Project Manager
1515 Soscol Ferry Road
Napa, CA 94558

Re: BID PROTEST
CIP NO. 14726 MST Recycled Water Pipeline Project
Bid Date: December 16, 2013

Dear Mr. Broughton,

I represent Ghilotti Construction Company, Inc., 246 Ghilotti Ave. Santa Rosa, CA (GCC). On Monday, December 16, 2013, GCC bid the above referenced project. During a review of Preston Pipeline's (Preston), Sanco Pipeline's (Sanco) and Ranger Pipeline's (Ranger) submitted bid documents, it has been determined that the Preston, Sanco and Ranger bids are not responsive and therefore must be rejected by the Napa Sanitation District, (DISTRICT). Accordingly pursuant to Contract Documents, (section 15.0 Bid Protest), GCC hereby formally protests an award of this contract to Preston, Sanco, or Ranger. Their bids must be deemed nonresponsive.

With this Bid Protest, I am also submitting a certified check payable to the Napa Sanitation District in the sum of \$1,000.00 pursuant to section 15.0 B of the contract documents.

BIDS ARE NONRESPONSIVE

1. The DISTRICT should reject Preston's bid as nonresponsive because it failed to submit GFE Documentation.

The INSTRUCTION TO BIDDERS in the original bid documents stated in SECTION 00100-2 that, "...bidder shall complete and submit to the owner the required forms in section 00800 within ten (10) days of the bid opening." Section 00800 contains all of the required GFE documentation. Addendum No.2 subsequently modified the ten day submittal requirement by requiring the GFE Documentation to be submitted with the

bid. Addendum No.2 stated the following: ADD the following item to 00100-1 (list of completed documents required to be contained in bids for the work): SECTION 00800 TITLE GOOD FAITH EFFORT DOCUMENTATION.

Preston did not submit any good faith effort documentation with their bid.

Addendum No.4 states the following: SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS. REPLACE APPENDIX 2 – SWRCB DBE REQUIREMENT in its entirety with Attachment 2.

Item no.2 of page two of Attachment 2 states “Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid.” (See attachment 1)

Again, Preston did not submit any GFE documentation with its bid. The DISTRICT must reject Preston’s bid as nonresponsive.

2. The DISTRICT must reject Sanco’s bid as nonresponsive because it failed to make a proper Good Faith Effort.

Addendum No.4 states the following: SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS. REPLACE APPENDIX 2 – SWRCB DBE REQUIREMENT in its entirety with Attachment 2. Item no.5 of page two of Attachment 2 states “Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.” Sanco’s documentation for Item [step] no.5 confirms that Sanco failed to use the services of either the SBA or the MBDA as required by the bid documents (see attachment 2)

Page one of Attachment 2 of Addendum 2 states “The key functional components of the DBE Program are as follows: ...Six [steps to achieving] Good Faith Efforts...” Sanco did not satisfy step no.5 in this list.

Since Sanco did not submit the required GFE documentation with its bid, the DISTRICT must reject Sanco’s bid as nonresponsive.

3. The DISTRICT must reject Ranger’s bid as nonresponsive because it failed to submit GFE Documentation.

The INSTRUCTION TO BIDDERS in the original bid documents stated in SECTION 00100-2 that, “...bidder shall complete and submit to the owner the required forms in section 00800 within ten (10) days of the bid opening.” Section 00800 contains all of the required GFE documentation. Addendum No.2 subsequently modified the ten day submittal requirement by requiring the GFE Documentation to be submitted with the

bid. Addendum No.2 stated the following: ADD the following item to 00100-1 (list of completed documents required to be contained in bids for the work): SECTION 00800 TITLE GOOD FAITH EFFORT DOCUMENTATION.

Ranger did not submit any good faith effort documentation with their bid.

Addendum No.4 states the following: SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS. REPLACE APPENDIX 2 – SWRCB DBE REQUIREMENT in its entirety with Attachment 2.

Item no.2 of page two of Attachment 2 states “Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid.” (See attachment 1)

Because Ranger did not submit any GFE documentation with its bid. The DISTRICT must reject Ranger’s bid as nonresponsive.

This is very important because Addendum 2, Attachment 2 clearly states that “All CWSRF financing recipients are required to complete and ensure that the prime contractor complies with the GFE...” This same form goes on to say, “Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid.”

STANDARD

Preston, Sanco, and Ranger must concede that their bids are non-responsive. Consequently the DISTRICT has the discretion to reject the bids whether material or not.

The leading case *MCM Construction, Inc. v. City and County of San Francisco*, 66 Cal. App. 4th 359 (1998) confirms that authority:

“No case cited by MCM holds that where the City can waive a deviation it must do so. In Valley Crest, supra, 41 Cal. App. 4th 1432, the court reversed the city's waiver of a bid requirement, where the requirement was held material and hence not waivable.” MCM, supra 373.

In this bid protest, the omissions cannot be characterized as not material and therefore is would be an abuse of discretion to waive these defects in the bids:

“Valley Crest held that misstating the correct percentage of work to be done by a subcontractor was “in the nature of a typographical or arithmetical error. It makes the bid materially different and is a mistake in filling out the bid.” As such, the contractor could have sought relief under Public Contract Code section 5103. Consequently, the contractor's ability to withdraw its bid

without forfeiting its bond constituted an unfair advantage and the city could not waive the irregularity. (Valley Crest, supra, 41 Cal. App. 4th 1432, 1442.)

We believe the failure to state [required information on the bid form] is, like the misstatement of the correct percentage of work to be done by subcontractors in Valley Crest, "in the nature of a typographical or arithmetical error." As such, MCM could have sought relief under the statute and had an advantage not available to other bidders. The City was without power to waive the deviation" MCM, supra 377.

The bid documents deem that the failure to comply with DBE/GFE requirements "constitutes a non-responsive bid." The failure to provide the required information means that the DISTRICT is "... *without power to waive the deviation*".

The funding of this project is dependent upon compliance with the DBE/GFE requirements.

Examination of the percentages of DBE/GFE participation in these bids is inexplicably low, unless one assumes non-compliance and the resulting unfair advantage taken by these bidders.

SAFETY ISSUES

As reported by the Napa Register, (a copy of the article is attached), there exist serious safety issues that should disqualify the lowest bidders.

A "responsible bidder" is defined as a bidder who has demonstrated the attributes of trustworthiness as well as quality, fitness, capacity, and experience to satisfactorily perform a public works contract. *Pub Cont C §1103*

The discretion to reject the low bid will not be interfered with in the absence of fraud or abuse. See *West v City of Oakland* (1916) 30 CA 556.

The DISTRICT has a duty to investigate the safety concerns and the extent they are true, the DISTRICT must reject those bids.

CONCLUSION

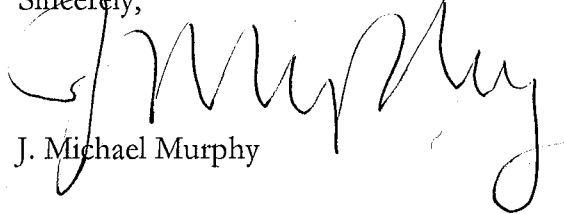
The Ranger, Preston, & Sanco bids are unresponsive and according the standard set forth in MCM, the defects cannot be waived. Further, there is substantial concern that the low bidders should be rejected for safety concerns.

Napa Sanitation District
Attn. Kyle Broughton, Project Manager
December 20, 2013
Page 5

Of the bids submitted to the DISTRICT for this project, GCC is the lowest responsive bidder. As such, the DISTRICT must reject the flawed bids submitted by Preston, Sanco and Ranger and award this project to Ghilotti Construction Company.

Thank you for your consideration of this matter. Please call me with your questions.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Michael Murphy". The signature is fluid and cursive, with the first name "J." and last name "Murphy" clearly distinguishable.

J. Michael Murphy

JMM: ll
File #G223
Encls.

PROOF OF SERVICE ATTACHED



NAPA SANITATION DISTRICT

Addendum 2

12

To: Plan Holders / Prospective Bidders
Project: MST Recycled Water Pipeline Project (CIP 14726)
Issued Date: November 26, 2013
Bid Date: December 10, 2013 at 2:00pm
Location: Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558
No. of Pages: 16

ATTACHMENT

①

This Addendum becomes a part of the Contract Documents and modifies the original Bidding Package dated October and November 2013 (Project Manual and Contract Drawings, respectively) as noted below. Acknowledge receipt of this Addendum by completing Section 00300 – Bid Form in the Bidding Package. Failure to do so may subject Bidder to disqualification.

Summary:

2-1 Section 00100 INSTRUCTIONS TO BIDDERS

ADD the following item to 00100-1 (list of completed documents required to be contained in bids for the work):

<u>SECTION</u>	<u>TITLE</u>
00800	GOOD FAITH EFFORT DOCUMENTATION

2-2 Section 00310 BID SCHEDULE

REPLACE Section 00310 in its entirety with Attachment 1 of Addendum No. 2.

2-3 Section 01025 MEASUREMENT AND PAYMENT

Alternative A – Bid Items 1 through 27

DELETE the paragraph in BID ITEM 25: ADDITIONAL ASPHALT PAVING RESTORATION AS DIRECTED BY THE CONSTRUCTION MANAGER – Square Yard and REPLACE with the following:

"Not Used"

SECTION 00100

INSTRUCTIONS TO BIDDERS

1.0 GENERAL

The work to be performed is described in the Contract Documents titled, **MST Recycled Water Pipeline (CIP NO. 14726)**. Please read these Instructions carefully. This solicitation contemplates two projects. However, final selection of the project will depend on the District's budget, funding from external sources and subscribers to the MST Recycled Water Pipeline. The District's set of bid documents include two (2) projects. Alternative A is the "Big Project" with larger diameter pipes and associated improvements. Alternative B is the "Small Project" with smaller diameter pipes and associated improvements. Only one project will be awarded. Codes and standards, definitions of words and terms, and abbreviations shall be as specified in Section 01090, **References**.

All bidders shall carefully examine the Contract Documents and satisfy themselves as to their sufficiency; and shall not at any time after the submission of the bid dispute or complain of such Contract Documents and the directions explaining them or interpreting them, nor assert that there is any misunderstanding in regard to the location, extent, nature of amount of work to be performed. The bidder shall notify the Owner of any discovered conflicts, errors of discrepancies in the Contract Documents prior to the submission of its bid. Intended bidders shall have visited the site of the work and familiarized themselves with the conditions there existing as well as all other conditions relating the construction and labor under which the work will be performed and affecting cost, progress or performance of the work. The submitting of a bid shall be considered an acknowledgement on the part of the Bidder of its familiarity with conditions at the site of work.

Bids for the work shall be made on the forms contained in the following sections and shall include the following completed documents:

<u>SECTION</u>	<u>TITLE</u>	← X
00300	BID FORM	
00310	BID SCHEDULE	
00410	BIDDER'S BOND	
00430	DESIGNATION OF SUBCONTRACTORS	
00440	PROJECT SITE VISIT AFFIDAVIT	
00450	SCHEDULE OF MAJOR EQUIPMENT AND MATERIAL SUPPLIERS, PRODUCTS IDENTIFIED BY NAM AND SUBSTITUTION	
00458	CERTIFICATION OF DRUG-FREE WORKPLACE REQUIREMENTS	
00460	CERTIFICATION OF BIDDER'S EXPERIENCE AND QUALIFICATIONS	
00480	NONCOLLUSION AFFIDAVIT	
00490	AFFIDAVIT OF SAFETY COMPLIANCE	
00495	WORKERS' COMPENSATION INSURANCE CERTIFICATION	



NAPA SANITATION DISTRICT Addendum 4

ATTACHMENT

①

To: Plan Holders / Prospective Bidders
Project: MST Recycled Water Pipeline Project (CIP 14726)
Issued Date: December 6, 2013
Bid Date: December 16, 2013 at 2:00 pm (as revised herein)
Location: Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558
No. of Pages: 63

12

This Addendum becomes a part of the Contract Documents and modifies the original Bidding Package dated October and November 2013 (Project Manual and Contract Drawings, respectively) as noted below. Acknowledge receipt of this Addendum by completing Section 00300 – Bid Form in the Bidding Package. Failure to do so may subject Bidder to disqualification.

Summary:

4-1 Section 00010 NOTICE INVITING BIDS

DELETE the first paragraph on page 00010-1 and REPLACE with the following:

"Notice is hereby given that sealed bids will be received by the Napa Sanitation District in the District office located at 1515 Soscol Ferry Road, Napa California 94558, at any time prior to 2:00 P.M. PST on December 16, 2013 for furnishing all labor, materials, equipment and services for the construction of Improvements designated as:

CIP No. 14726

MST Recycled Water Pipeline Project"

4-2 SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS

REPLACE APPENDIX 1 – Davis Bacon Requirements in its entirety with the Attachment 1:

*→ 4-3 SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS

REPLACE APPENDIX 2 - SWRCB DBE REQUIREMENT in its entirety with the Attachment 2: ↗*



NAPA SANITATION DISTRICT
Addendum 4

ATTACHMENT 2



California State Water Resources Control Board
Division of Financial Assistance (Division)
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707
Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: <http://www.waterboards.ca.gov>

**Guidelines for Meeting the Clean Water State Revolving Fund (CWSRF) Program
Disadvantaged Business Enterprise (DBE) Requirements**

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the CWSRF Program.

How to Achieve the Purpose of the Program

Recipients of CWSRF financing are required to seek, and are encouraged to use, DBEs for their procurement needs. Financial assistance recipients should award a "fair share" of sub-agreements to DBEs. This applies to all sub-agreements for equipment, supplies, construction, and services.

The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting

Disadvantaged Business Enterprise's are:

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women.
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

Certifying DBE Firms:

Under the DBE Program, entities can no longer self-certify and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the CWSRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The US Environmental Protection Agency (USEPA)
- The Small Business Administration (SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

Six Good Faith Efforts (GFE)

All CWSRF financing recipients are required to complete and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, State and Local Government Recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The forms listed in the table below and attached to these guidelines; must be completed and submitted with the GFE:

FORM NUMBER	FORM NAME	REQUIREMENT	PROVIDED BY	COMPLETED BY	SUBMITTED TO
1	DBE Contractor/Subcontractor Certification	Proof of DBE certification	Recipient	Prime Contractor and Sub-Contractor	SWRCB by Recipient
2	DBE Selected Prime Contractor and Sub-Contractors	List selected DBEs	Recipient	Prime Contractor	SWRCB by Recipient

The completed forms should be submitted with each Bid or Proposal. The recipient shall review the bidder's documents closely to determine that the GFE was performed prior to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CWSRF financing for the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
3. If there is a bid dispute, all disputes shall be settled prior to submission of the Final Budget Approval Form.

Administration Requirements

- A recipient of CWSRF financing must require entities receiving funds to create and maintain a Bidders List if the recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both DBEs and non-DBEs;
- Information retained on the Bidder's List must include the following:
 1. Entity's name with point of contact;
 2. Entity's mailing address and telephone number;
 3. The project description on which the entity bid or quoted and when;
 4. Amount of bid/quote; and
 5. Entity's status as a DBE or non-DBE.

- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include Bidders List as part of the Final Budget Approval Form.
- A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Recipient.
- A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor by the prime contractor.
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six GFEs if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives.

Reporting Requirements

For the duration of the construction contract(s), the recipient is required to submit to the State Water Resources Control Board DBE reports semi-annually by April 10 and October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

CONTACT FOR MORE INFORMATION

SWRCB – CWSRF Barbara August (916) 341-6952 barbara.august@waterboards.ca.gov

SWRCB – CWSRF Susan Damian (916) 341-5494 susan.damian@waterboards.ca.gov.

US-EPA Region 9 – Joe Ochab (415) 972-3761 ochab.joe@epa.gov.

Revised August 2, 2013

DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTOR/SUBCONTRACTOR CERTIFICATION

Entity Name:	Phone:
Address:	
Principal Service or Product:	Bid Amount \$



NAPA SANITATION DISTRICT
Addendum 4

ATTACHMENT
②

To: Plan Holders / Prospective Bidders
Project: MST Recycled Water Pipeline Project (CIP 14726)
Issued Date: December 6, 2013
Bid Date: December 16, 2013 at 2:00 pm (as revised herein)
Location: Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558
No. of Pages: 63

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This Addendum becomes a part of the Contract Documents and modifies the original Bidding Package dated October and November 2013 (Project Manual and Contract Drawings, respectively) as noted below. Acknowledge receipt of this Addendum by completing Section 00300 – Bid Form in the Bidding Package. Failure to do so may subject Bidder to disqualification.

Summary:

4-1 Section 00010 NOTICE INVITING BIDS

DELETE the first paragraph on page 00010-1 and REPLACE with the following:

"Notice is hereby given that sealed bids will be received by the Napa Sanitation District in the District office located at 1515 Soscol Ferry Road, Napa California 94558, at any time prior to 2:00 P.M. PST on December 16, 2013 for furnishing all labor, materials, equipment and services for the construction of improvements designated as:

CIP No. 14726

MST Recycled Water Pipeline Project"

4-2 SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS

REPLACE APPENDIX 1 – Davis Bacon Requirements in its entirety with the Attachment 1:

***→ 4-3 SECTION 00800 SUPPLEMENTARY GENERAL CONDITIONS**

REPLACE APPENDIX 2 - SWRCB DBE REQUIREMENT in its entirety with the Attachment 2:



NAPA SANITATION DISTRICT
Addendum 4

ATTACHMENT 2



California State Water Resources Control Board
Division of Financial Assistance (Division)
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707
Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: <http://www.waterboards.ca.gov>

**Guidelines for Meeting the Clean Water State Revolving Fund (CWSRF) Program
Disadvantaged Business Enterprise (DBE) Requirements**

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the CWSRF Program.

How to Achieve the Purpose of the Program

Recipients of CWSRF financing are required to seek, and are encouraged to use, DBEs for their procurement needs. Financial assistance recipients should award a "fair share" of sub-agreements to DBEs. This applies to all sub-agreements for equipment, supplies, construction, and services.

The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting

Disadvantaged Business Enterprise's are:

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women,
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

Certifying DBE Firms:

Under the DBE Program, entities can no longer self-certify and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the CWSRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The US Environmental Protection Agency (USEPA)
- The Small Business Administration (SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

Six Good Faith Efforts (GFE)

→ All CWSRF financing recipients are required to complete and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, State and Local Government Recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
- * → 5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The forms listed in the table below and attached to these guidelines; must be completed and submitted with the GFE:

FORM NUMBER	FORM NAME	REQUIREMENT	PROVIDED BY	COMPLETED BY	SUBMITTED TO
1	DBE Contractor/Subcontractor Certification	Proof of DBE certification	Recipient	Prime Contractor and Sub-Contractor	SWRCB by Recipient
2	DBE Selected Prime Contractor and Sub-Contractors	List selected DBEs	Recipient	Prime Contractor	SWRCB by Recipient

The completed forms should be submitted with each Bid or Proposal. The recipient shall review the bidder's documents closely to determine that the GFE was performed prior to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CWSRF financing for the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
3. If there is a bid dispute, all disputes shall be settled prior to submission of the Final Budget Approval Form.

Administration Requirements

- A recipient of CWSRF financing must require entities receiving funds to create and maintain a Bidders List if the recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both DBEs and non-DBEs;
- Information retained on the Bidder's List must include the following:
 1. Entity's name with point of contact;
 2. Entity's mailing address and telephone number;
 3. The project description on which the entity bid or quoted and when;
 4. Amount of bid/quote; and
 5. Entity's status as a DBE or non-DBE.

- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include Bidders List as part of the Final Budget Approval Form.
- A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Recipient.
- A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor by the prime contractor.
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six GFEs if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives.

Reporting Requirements

For the duration of the construction contract(s), the recipient is required to submit to the State Water Resources Control Board DBE reports semi-annually by April 10 and October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

CONTACT FOR MORE INFORMATION

SWRCB – CWSRF Barbara August (916) 341-6952 barbara.august@waterboards.ca.gov

SWRCB – CWSRF Susan Damian (916) 341-5494 susan.damian@waterboards.ca.gov.

US-EPA Region 9 – Joe Ochab (415) 972-3761 ochab.joe@epa.gov.

Revised August 2, 2013

DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTOR/SUBCONTRACTOR CERTIFICATION

Entity Name:	Phone:
Address:	
Principal Service or Product:	Bid Amount \$



GENERAL ENGINEERING CONTRACTORS

STATE CONTRACTORS LICENSE NO. 100382

727 UNIVERSITY AVENUE, LOS GATOS, CA 95032

PHONE: (408) 377-2703 FAX: (408) 377-7599

December 16, 2013

Bid Opening: 12/16/13 @ 2:00 pm

**Good Faith Effort
MST Recycled Water Pipeline
Napa County**

Retrieved Bidding Documents from Napa Sanitation District on 11/25/13, at which time project was reviewed in house for consideration. On 12/3/13 received confirmation in Sanco's interest in bidding project and to initiate actively seeking vendor quotations for consideration.

Step 1

Advertised "Request for Proposal" on "Construction Bid Source" Website on 12/9/13.

Advertised "Request for Proposal" on "DBE Good Faith" Website on 12/9/13.

(See attached advertisement.)

Step No. 2

On 12/6/13 - Sanco contacted Western Traffic Supply, Inc, a certified DBE company and requested an estimate for the Traffic Control Equipment materials and installation portion of the project. Western Traffic Supply, Inc. provided Sanco an estimate for the aforementioned items and it was determined to be the low bidder. Western Traffic Supply, Inc. will be the traffic control supplier for this project. DBE Certification is attached.

On 12/6/13 - Sanco contacted Rupert Construction Supply, a certified DBE company and requested an estimate for miscellaneous construction materials. Rupert Construction Supply sent a listing of items available only. As of 12/16/13, they have not sent a quote or pricing as requested. Rupert Construction Supply will not be considered as a supplier for this project. Rupert Construction was added to Sanco's list as a future DBE source.

On 12/6/13 - Sanco contacted Vintage Paving, a certified DBE company and requested an estimate for paving portion of the project. Vintage Paving provided Sanco an estimate and it was determined to not be the low bidder. Sanco Pipelines, Inc. has added Vintage Paving to Sanco's listing as a DBE source to be contacted for use on future projects.

12/6/13 - Contacted Active Treatment Systems, Inc., a certified SBE/DBE company and requested an estimate for a dewatering quote. Active Treatment Systems provided Sanco an estimate and was determined to be the low bidder. ATS will be utilized for the dewatering of the bore portions of the project and has been put on Sanco's list as a DBE source for use on future project. DBE Certification is attached.

On 12/11/13 - Sanco contacted Double M Trucking, a certified DBE Company, and requested an estimate to haul aggregate material to the project site. Double M Trucking provided an estimate at a per ton rate and will be utilized as the primary vendor for hauling aggregate material on the project. Double M Trucking was added to Sanco's listing as a DBE source to be contracted for use on future projects. DBE certification is attached.

On 12/11/13 - Sanco contacted USA Trucking, a certified DBE company, and requested an estimate to haul aggregate material to the project site. USA Trucking provided Sanco an estimate based on a per ton rate. Sanco determined the proposal was 2nd to the lowest trucking proposal. USA Trucking will be listed as our secondary Trucking for the project. USA Trucking was added to Sanco's listing as a DBE source to be contracted for use on future projects. DBE certification is attached.

On 12/11/13 – Sanco contacted Chavez Trucking, a certified DBE company, and requested an estimate to haul aggregate material to the project site. Chavez Trucking provided Sanco an estimate based on hourly rates. It was determined to not be the lowest trucking proposal and will not be utilized as a vendor for the Project. Chavez Trucking was added to Sanco's listing as a DBE source to be contacted for use on future projects.

On 12/11/13 – Sanco contacted GD Nelson Construction, a certified MBE/DBE company and asked if they would like to provide a quote for the paving portion of this project. At that time GD Nelson informed Sanco that although they are DBE certified they are not a Union company and are not willing to sign a one-time project agreement. GD Nelson Construction did not provide a quote and will not be considered for this project. GD Nelson was added to Sanco's listing as a MBE/DBE source to be contacted for future projects.

On 12/11/13 – Sanco contacted Pimentel Paving to find out if they were DBE certified and if so, would they provide a quote to Sanco for the paving portion of the project. There was no answer at the time the call was placed. A voice mail message was left. As of 12/16/13 Sanco has not heard back from Pimentel Paving.

On 12/11/13 – Sanco Pipelines contacted Stripe 'N' Seal to find out if they were DBE certified and if so, would they provide a quote to Sanco for the striping portion of the project. Sanco was told Stripe 'N' Seal is not a DBE certified company and did not provide Sanco with a quote.

On 12/12/13 – Sanco Pipelines contacted Mobile Modular regarding DBE certification. At that time they stated that they partnered with a DBE company, but as of the bid time and date of 12/16/13 at 2:00pm, Sanco has not received the required paperwork back from Mobile Modular. Mobile Modular will be utilized on this project, but will not be listed as a DBE supplier.

Step No. 3

Sanco will divide the trucking into on and off site work in the attempt to utilize more than one certified DBE trucking company.

Step No. 4

There are no delivery schedules to be established which will permit greater participation. All other deliveries to job site will be by material suppliers only. Sanco Pipelines is utilizing DBE certified material supplier for Trucking and Traffic Control.

Step No. 5

On 12/10/13 – Searched www.dot.ca.gov for additional DBE sources

On 12/10/13 – Searched www.cadvbe.org for additional DBE sources

On 12/10/13 – Searched www.sb8a.com for additional DBE sources

On 12/12/13 – Search Local Yellow Pages for paving and striping contacts.

At various times throughout the bidding process, Sanco visited the above referenced website in search of material suppliers and/or other Subcontractors that are DBE certified. As of the bid opening date and time, 12/16/13 at 3:00 pm, Sanco found no other possible vendors and/or Subcontractors meeting our areas of need.

Step 6

There will be four Subcontracts issued by Sanco Pipelines, Inc. for this project.

DeSilva Gates Construction – Paving (Not a DBE certified company)

Independent Construction – Paving (Not a DBE certified company)

O'Grady Paving – Paving (Not a DBE certified company)

Vintage – Paving (DBE certified company)

Chris Company – Striping (Not a DBE certified company)

Fine Line Saw Cutting – Saw Cutting (Not a DBE certified company)

Pennal – Saw Cutting (Not a DBE certified company)

Pacific Boring – Boring (Not a DBE certified company)

Walter C. Smith – Boring (Not a DBE certified company)

Ghiotti Bros., Inc. (Not a DBE certified company)

DBE Certified Suppliers to be utilized for this project

Double M Trucking
USA Trucking

ATTACHMENT 2



Lowest pipeline bid could get tossed because of safety issues

Scale of Coombsville project still to be determined

DECEMBER 17, 2013 5:45 PM • PETER JENSEN

Bids for a proposed recycled water pipeline to the Coombsville area came in much lower than expected, but the lowest bidders may be disqualified under the Napa Sanitation District's safety standards.

If that's the case, landowners volunteering to pay for the project may be on the hook for paying more money for a smaller pipeline, Deputy Public Works Director Phil Miller told the Board of Supervisors on Tuesday.

The 5-mile pipeline, once built, will extend from Imola Avenue, through the Coombsville area and out to the Napa Valley Country Club on Hagen Road. It's intended to wean large water users off groundwater, allowing those supplies to replenish faster in an area that drains the Milliken, Sarco and Tulocay creeks.

Landowners have formed an assessment district that would allow the state government to loan the money needed to build the project, and be repaid through annual property tax payments. The federal government has pledged to pay 20 percent of the total project cost.

The pipeline's size is still to be determined, with a 1,000 acre-foot pipeline and a 2,000 acre-foot pipeline as the potential options that were put out to bid. Total costs for the larger project, including a pump station, pipeline, engineering work and other costs, are estimated to be about \$17 million, and the smaller project is estimated to cost about \$14 million.

The pipeline component of the larger project was estimated to cost \$10 million, and \$8.5 million of the smaller project. Two firms' bids for the larger pipeline came in at \$6.7 million and \$7.06 million, respectively.

However, the low bidders for the larger pipelines have below-average track records for workers' compensation claims, and therefore may have their bids tossed out because of the sanitation district's safety requirements.

The next lowest bidder on the larger size — one with an acceptable workers' compensation claims history — was \$9.2 million.

A similar issue applied to bids for the smaller pipeline. The two low bids were from companies with safety issues. The lowest bidder without safety complications was from a contractor who bid \$7.8 million.

"This project was never going to be easy," Miller said.

ATTACHMENT 3

The sanitation district requires bidders' workers' compensation claims to meet or exceed the national average for workplace safety, district general manager Tim Healy told the board.

The requirement has been in place for more than a decade, and stems from the district's participation in an insurance pool. Complying with those standards has saved the district roughly \$200,000 annually in insurance rate payments, said Supervisor Mark Luce, who sits on the district's board of directors.

Attorneys for the sanitation district are reviewing the low bids for the larger pipeline, and may determine that the safety standards can be exempt in this situation. If not, the bidder for the smaller pipeline may be awarded the contract.

Healy said an update is due to the sanitation district's board of directors at its meeting Jan. 22.

Supervisor Keith Caldwell said the district should have used prequalifications in the bidding process, so it could have disqualified the low bidders if they didn't meet standards.

Miller said the county is still working with the state government to get an easement so it could build a pump station on the Napa State Hospital grounds.

The project remains on track to start construction next year, as the pump station still has to open for bids, Miller said. The plan is to award the bids for the pipeline and the pump station at the same time, and start construction in the spring.

The bids on the pipeline remain valid for four months, meaning the county and the sanitation district have time to work out the issues with the safety requirements, he said.

0006090 11-24
Office AU # 1210(8)

CASHIER'S CHECK

SERIAL #: 0609001237
ACCOUNT#: 4861-511459

Purchaser: J MICHAEL MURPHY
Purchaser Account: 0262024482
Operator I.D.: cu015970 cu015970

December 20, 2013

PAY TO THE ORDER OF ***NAPA SANITATION DISTRICT***

One thousand dollars and no cents

***\$1,000.00**

WELLS FARGO BANK, N.A.
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NAPA, CA 94559
FOR INQUIRIES CALL (480) 394-3122

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REISSUANCE, WELLS FARGO & COMPANY MAY IMPOSE A
FEE AND REQUIRE AN INDEMNITY AGREEMENT AND BOND.

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0609001237

December 20, 2013

PAY TO THE ORDER OF ***NAPA SANITATION DISTRICT***

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***\$1,000.00**

WELLS FARGO BANK, N.A.
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NAPA, CA 94559
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MURPHY, LOGAN & BARDWELL
A PROFESSIONAL LAW CORPORATION
2350 FIRST STREET
NAPA, CALIFORNIA 94559-2239

PROOF OF SERVICE BY MAIL (C.C.P. §§1013a, 2015.5)

I, Lola Llamas, declare that:

1. I am a citizen of the United States, I am over the age of eighteen (18) years, and I am not a party to the within action.
2. I am employed at the law firm of Murphy, Logan & Bardwell. My business address is 2350 First Street, Napa, California 94559-2239.
3. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited with the United States Postal Service in the ordinary course of business.
4. On December 20, 2013, I served the following document(s):

GHILOTTI CONSTRUCTION COMPANY, INC'S BID PROTEST

by placing a true and correct copy thereof in a sealed envelope with postage thereon fully prepaid and placing the envelope for collection and mailing on the same day, following the firm's ordinary business practices.

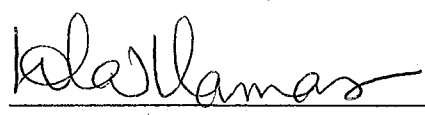
5. I served the documents listed above on the following parties, whose names and addresses appear on the envelope in the same manner as stated here and via facsimile:

SERVICE LIST IS ATTACHED

6. I am employed in the county where the mailing occurred. The envelope or package was placed in the mail at Murphy, Logan & Bardwell, 2350 First Street, Napa, California 94559.

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

Executed in the County of Napa, California on December 20, 2013.


Lola Llamas

SERVICE LIST

KJ WOODS CONSTRUCTION COMPANY

1485 BAYSHORE BLVD., #149
SAN FRANCISCO, CA 94124
PH: 415/759-0506
FX: 415/468-1359

ARGONAUT CONSTRUCTORS

1236 CENTRAL AVENUE
SANTA ROSA, CA 95401
PH: 707/542-4862
FX: 707/542-4897

SANCO PIPELINES

727 UNIVERSITY AVENUE
LOS GATOS, CA 95032
PH: 408/337-2793
FX: 408/354-7599

MOUNTAIN CASCADE, INC.

555 EXCHANGE COURT
LIVERMORE, CA 94550
PH: 925/373-8370
FX: 925/373-8379

PRESTON PIPELINES, INC.

3780 COMMERCE DRIVE
WEST SACRAMENTO, CA 95691
PH: 916/386-1500
FX: 916/386-7561

RANGER PIPELINES, INC.

1790 YOSEMITE AVENUE
SAN FRANCISCO, CA 94124
PH: 415/822-3700
FX: 415/822-3703