

GERALD C. WEAVER
A LAW CORPORATION

GERALDC. WEAVER

POST OFFICE BOX 494
BASS LAKE, CALIFORNIA 93604
TELEPHONE: (559) 642-3942
FAX: (559) 642-2707

September 1, 2011

Via Facsimile & U.S Mail
805/739-8773

County of Santa Barbara
Department of Public Works
Scott D. Mc Golpin, Director
123 East Anapamu Street
Santa Barbara, CA 93101-2065

Dear Mr. Mc Golpin:

Souza Construction, Inc. ("Souza") is the second low responsible bidder on County Project No. 862275, Retrofit of Maria Ygnacia Creek Bridge Retrofit. Souza Construction is formally protesting the award of this contract to the first low bidder, Brough Construction, Inc. ("Brough") on the grounds that Brough did not meet the three percent (3%) UDBE Goal, nor did they demonstrate a good faith effort to achieve that goal.

Souza exceeded the three percent (3%) goal specified by the contract. Two of the subcontractors, Super Seal and Stripe and Charlene's Transportation, that Brough shows as "NO BID" in their GFE did bid the project and Souza used both of them to obtain the goal. We contacted Super Seal and Stripe multiple times prior to the bid opening to verify that they would in fact be bidding this project and they never indicated that they would not be bidding, and in fact did bid to Souza and to Lash Construction, Inc., another bidder on the project.

Brough did not attempt to contact any UDBE's by phone until the day of the bid opening per Exhibit 15-H "Good Faith Efforts" to explain the project and give them a reasonable opportunity to provide a proposal. As stated in 49 CFR, Appendix A to Part 26, UDBE's shall be solicited through "all reasonable and available means." These regulations also state that:

"The bidder must solicit this interest within sufficient time to allow the DBE to respond to the solicitation. The bidder must determine with certainty if the DBE's are interested by taking appropriate steps to follow up initial solicitations."

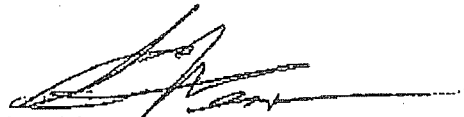
Brough failed to follow up with the UDBE's after the initial solicitation until the morning that the bid was due, which does not allow sufficient time to provide assistance or answer substantial questions that the UDBE may have. After the initial solicitation, Brough's failure to follow up promptly did not allow them time to contract additional UDBE's to fulfill the contract goal.

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Of the twenty two (22) UDBE's that Brough stated it solicited, Brough represents that only one stated that he or she would be bidding the project. Prior to receiving a quote from "The Firm" for item 6, Water Pollution Control Plan, a proactive bidder displaying an adequate good faith effort to achieve the contract goal would have known that he was not even close to realizing the goal as the cost to prepare the WPCP document ranges from \$400.00 to \$1,500.00 industry-wide.

Souza's attempt and success in achieving the 3% UDBE goal is sufficient proof that Brough did not make a good faith effort as defined in 48CRF, Appendix A to Part 26. Section V, that states "*in determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract.*"

Very Truly Yours,



Gerald C. Weaver
GCW/law

fc: Client

BID SUMMARY SHEET

Project: SEISMIC RETROFIT OF BRIDGE No. 51C-002 LOCATED ON SAN MARCOS RD. FEDERAL AID PROJECT NO. BRLSZD-5951 (090)

Project No: 862275
 Bid Opening: August 18, 2011

Item	Code No.	Description	Unit	Estimated Quantities	Brough Construction		Souza Construcion Inc.		Lash Construction Inc.		Engineer's Estimate	
					Unit Price	Unit Cost	Unit Price	Unit Cost	Unit Price	Unit Cost	Unit Price	Unit Cost
1	035336	TEMPORARY CRASH CUSHION (TYPE ABSORB 350)	EA	4.00	\$1,300.00	\$5,200.00	\$1,516.00	\$6,064.00	\$2,800.00	\$11,200.00		
2	068189	MAINTAIN BIRD EXCLUSION NETING	LS	1.00	\$2,400.00	\$2,400.00	\$1,866.00	\$1,866.00	\$5,000.00	\$5,000.00		
3	071325	TEMPORARY FENCE (TYPE ESA)	LF	272.00	\$5.00	\$1,360.00	\$7.00	\$1,904.00	\$15.00	\$4,080.00		
4	072007	SHORING AND TRAFFIC PLATING OR EQUIVALENT METHOD	LS	1.00	\$10,200.00	\$10,200.00	\$12,000.00	\$12,000.00	\$10,000.00	\$10,000.00		
5	074016	CONSTRUCTION SITE MANAGEMENT	LS	1.00	\$2,655.00	\$2,655.00	\$762.00	\$762.00	\$1,000.00	\$1,000.00		
6	074017	PREPARE WATER POLLUTION CONTROL PROGRAM	LS	1.00	\$2,360.00	\$2,360.00	\$1,100.00	\$1,100.00	\$5,000.00	\$5,000.00		
7	074028	TEMPORARY FIBER ROLL	LF	169.00	\$9.00	\$1,701.00	\$4.00	\$758.00	\$5.00	\$945.00		
8	074029	TEMPORARY SILT FENCE	LF	272.00	\$6.00	\$1,632.00	\$5.00	\$1,360.00	\$5.00	\$1,360.00		
9	074031	TEMPORARY GRAVEL BAG BERM	LF	20.00	\$16.00	\$320.00	\$27.00	\$540.00	\$5.00	\$100.00		
10	074043	TEMPORARY CONCRETE WASHOUT BIN	EA	1.00	\$1,260.00	\$1,260.00	\$783.00	\$783.00	\$1,000.00	\$1,000.00		
11	120090	CONSTRUCTION AREA SIGNS	LS	1.00	\$11,210.00	\$11,210.00	\$10,450.00	\$10,450.00	\$10,000.00	\$10,000.00		
12	120100	TRAFFIC CONTROL SYSTEM	LS	1.00	\$27,184.00	\$27,184.00	\$51,000.00	\$51,000.00	\$59,000.00	\$59,000.00		
13	120120	TYPE III BARRICADE	EA	16.00	\$114.00	\$1,824.00	\$55.00	\$880.00	\$45.00	\$720.00		
14	120161	TEMPORARY TRAFFIC STRIPE	LF	710.00	\$5.30	\$3,763.00	\$5.00	\$3,550.00	\$4.00	\$2,840.00		
15	120165	CHANNELIZER (SURFACE MOUNTED)	LF	16.00	\$33.00	\$528.00	\$22.00	\$352.00	\$35.00	\$560.00		
16	120200	FLASHING BEACON (PORTABLE)	EA	7.00	\$94.00	\$658.00	\$83.00	\$581.00	\$80.00	\$560.00		
17	128650	PORTABLE CHANGEABLE MESSAGE SIGN	EA	2.00	\$3,015.00	\$6,030.00	\$1,400.00	\$2,800.00	\$4,400.00	\$8,800.00		
18	129000	TEMPORARY RAILING (TYPE K)	LF	280.00	\$29.00	\$8,120.00	\$32.00	\$8,960.00	\$33.00	\$9,240.00		
19	141101	REMOVE YELLOW PAINTED TRAFFIC STRIPE (HAZARDOUS WASTE)	LF	350.00	\$30.00	\$10,500.00	\$28.00	\$9,800.00	\$10.00	\$3,500.00		
20	150768	REMOVE AND DISPOSE OF ASPHALT CONCRETE	CY	22.00	\$102.00	\$2,244.00	\$155.00	\$3,410.00	\$90.00	\$1,980.00		
21	150857	REMOVE ASPHALT CONCRETE SURFACING	BF	70.00	\$18.00	\$1,260.00	\$113.00	\$7,910.00	\$25.00	\$1,750.00		
22	152373	RELOCATE METAL BRIDGE RAILING	LS	1.00	\$10,525.00	\$10,525.00	\$3,200.00	\$3,200.00	\$4,900.00	\$4,900.00		
23	157560	BRIDGE REMOVAL (PORTION)	LS	1.00	\$18,000.00	\$18,000.00	\$23,000.00	\$23,000.00	\$44,000.00	\$44,000.00		
24	160110	LEAD COMPLIANCE PLAN	LS	1.00	\$1,360.00	\$1,360.00	\$25,000.00	\$25,000.00	\$5,000.00	\$5,000.00		
25	192003	STRUCTURE EXCAVATION (BRIDGE)	CY	61.00	\$119.00	\$7,259.00	\$138.00	\$8,418.00	\$23.00	\$1,403.00		
26	193003	STRUCTURE BACKFILL (BRIDGE)	CY	14.00	\$208.00	\$2,912.00	\$522.00	\$7,308.00	\$300.00	\$4,200.00		
27	260201	CLASS II AGGREGATE BASE	CY	10.00	\$219.00	\$2,190.00	\$376.00	\$3,760.00	\$350.00	\$3,500.00		
28	350133	HOT MIX ASPHALT (TYPE B)	TON	41.00	\$205.00	\$8,405.00	\$270.00	\$11,070.00	\$200.00	\$8,200.00		
29	490507	48" CAST-IN-DRILLED-HOLE CONCRETE PILING	LF	200.00	\$1,389.00	\$277,800.00	\$1,548.00	\$309,600.00	\$1,340.00	\$268,000.00		
30	510053	STRUCTURAL CONCRETE (BRIDGE)	CY	42.00	\$1,650.00	\$69,300.00	\$1,236.00	\$51,912.00	\$3,100.00	\$130,200.00		
31	511106	DRILL AND BOND DOWEL	LF	62.00	\$33.00	\$2,046.00	\$127.00	\$7,874.00	\$400.00	\$24,800.00		
32	515081	CORE CONCRETE (3")	LF	16.00	\$65.00	\$1,040.00	\$110.00	\$1,760.00	\$130.00	\$2,080.00		
33	515160	CORE CONCRETE (1 1/2") AND BOND THREADED ROD	LF	48.00	\$79.00	\$3,792.00	\$82.00	\$3,936.00	\$104.00	\$4,992.00		
34	520102	BAR REINFORCING STEEL (BRIDGE)	LB	23062.00	\$1.25	\$28,827.50	\$1.50	\$34,593.00	\$1.30	\$29,980.60		
35	550102	STRUCTURAL STEEL (BRIDGE)	LB	11102.00	\$6.00	\$66,612.00	\$4.77	\$52,956.54	\$6.00	\$66,612.00		
36	590115	CLEAN AND PAINT STRUCTURAL STEEL	LS	1.00	\$25,225.00	\$25,225.00	\$10,000.00	\$10,000.00	\$19,000.00	\$19,000.00		
37	750498	MISCELLANEOUS METAL (RESTRAINER-CABLE TYPE)	LB	534.00	\$50.00	\$26,700.00	\$40.00	\$21,360.00	\$96.00	\$51,264.00		
38	750501	MISCELLANEOUS METAL (BRIDGE)	LB	386.00	\$22.00	\$8,492.00	\$23.00	\$8,878.00	\$4.00	\$1,544.00		
39	820134	OBJECT MARKER (TYPE P)	EA	4.00	\$105.00	\$420.00	\$110.00	\$440.00	\$105.00	\$420.00		
40	840658	PAINT TRAFFIC STRIPE (2-COAT)	LF	485.00	\$5.00	\$2,425.00	\$4.00	\$1,940.00	\$4.00	\$1,940.00		
41	999990	MOBILIZATION	LS	1.00	\$23,200.00	\$23,200.00	\$28,840.00	\$28,840.00	\$51,000.00	\$51,000.00		
CONTRACTOR'S BID ITEMS (SUBTOTAL)						\$680,911.50		\$740,473.54		\$861,670.60		
42	066070	SUPPLEMENTAL WORK (MAINTAIN TRAFFIC)	LS	1.00	\$27,000.00	\$27,000.00	\$27,000.00	\$27,000.00	\$27,000.00	\$27,000.00		
43	066188	SUPPLEMENTAL WORK (ENVIRONMENTAL MITIGATION)	LS	1.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00		
44	066589	SUPPLEMENTAL WORK (CLEAN AND PAINT EXISTING CONTACT SURFACE)	LS	1.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00		
45	066597	SUPPLEMENTAL WORK (STORM WATER SAMPLING AND ANALYSIS)	LS	1.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00		
SUPPLEMENTAL BID ITEMS (SUBTOTAL)						\$49,000.00		\$49,000.00		\$49,000.00		
BID ITEMS AND SUPPLEMENTAL ITEMS TOTAL						\$737,911.50		\$789,473.54		\$910,670.60		
Bid Totals						\$737,911.50		\$789,473.54		\$910,670.60		

Other Bids		
Union Engineering		\$998,435.30
Specialty Construction, Inc.		\$951,258.00
Whitaker Construction Group, Inc.		\$943,542.00

BID REVIEW				
PERCENT DIFFERENCE BETWEEN BIDS			BID RANGES	
	TOTAL COST	%		
LOWEST BID	\$737,911.50			
2ND BID	\$789,473.54	6.53	0-6	NO
LOWEST BID	\$737,911.50			
3RD BID	\$910,670.60	18.57	0-9	NO
LOWEST BID	\$737,911.50			
HIGHEST BID	\$998,435.30	26.09	0-17	NO
LOWEST BID	\$737,911.50			
ENGINEER'S ESTIMATE	\$681,417.00	-11.57		

BROUGH SUBCONTRACTORS

LIST OF SUBCONTRACTORS COUNTY PROJECT NO. 862275

The Bidder shall list the name and address of each subcontractor to whom the Bidder proposes to subcontract portions of the work as required by the provisions in Section 2-1.054, "Required Listing of Proposed Subcontractors," of the Standard Specifications.

Name and Address	Description of portion of work subcontracted
CMC Rebar 12451 Arrow Rk Etowanda Ct	Supply Rebar
The Firm Ripond Ct	WPCP
WILKINSON SIDH PILE M COMPTON, CA.	CIDH PILE
American Coatings Lompoc, CA	PAINTING + ABATEMENT
Toste Cons. A.G., CA	STRIPE + STRIPE REMOVAL

NOTE: This form may be reproduced and attached behind this page to list more Subcontractors.

SOUZA SUB CONTRACTORS

LIST OF SUBCONTRACTORS
 COUNTY PROJECT NO. 862275

The Bidder shall list the name and address of each subcontractor to whom the Bidder proposes to subcontract portions of the work as required by the provisions in Section 2-1.054, "Required Listing of Proposed Subcontractors," of the Standard Specifications.

Name and Address	Description of portion of work subcontracted
GMC REBAR 12451 ARROWROOT ELWANDA, CA	REBAR
AMERICAN COATINGS 318 N. FIRST STREET LOMPOC, CA	CLEAN + PAINT STRUCTURAL STEEL
MAHAFFEY DRILLING 1300 S. ALAMEDA COMPTON, CALIFORNIA.	DRILL CIGHT PILES
TOSTECONSTRUCTION 2651 GREENPLACE ARROYO GRANDE, CA	STRIPING SAS
SUPER SEAL AND STRIPE INC. 170 E. TELEGRAPH ROAD, FILMORE, CA	STRIPING

NOTE: This form may be reproduced and attached behind this page to list more Subcontractors.

LASH SUBCONTRACTORS

LIST OF SUBCONTRACTORS
COUNTY PROJECT NO. 862275

The Bidder shall list the name and address of each subcontractor to whom the Bidder proposes to subcontract portions of the work as required by the provisions in Section 2-1.054, "Required Listing of Proposed Subcontractors," of the Standard Specifications.

Name and Address	Description of portion of work subcontracted
AMERICAN COATINGS 206A N. 1ST ST LOMPOC CA 93436	LEAD CONTH PAINTING
STATEWIDE SAFETY PO BOX 1440 PISMO BEACH CA	CAS VARIOUS TRAFFIC CONTROL ITEMS
CMC STEEL 215 YORK PL CLAREMONT CA 91711	REBAR

NOTE: This form may be reproduced and attached behind this page to list more Subcontractors.