



MONA G. EBRAHIMI
mebrahimi@kmtg.com

November 3, 2023

VIA E-MAIL AND U.S. MAIL

Patrick Mullen
B&M Builders, Inc.
11330 Sunrise Park Drive, St. C
Rancho Cordova, CA 95742
E-Mail: pmullen@bm-builders.com

Re: Response to Protest of Bid- City of Placerville Broadway Sidewalks Project (CIP #41606)

Dear Mr. Mullen:

I serve as the City Attorney for the City of Placerville. This letter responds to your undated bid protest, which was received by the City on October 20, 2023, regarding the Broadway Sidewalk Project ("Project"). In your letter, B&M Builders, Inc. ("B&M") submitted a bid protest on the grounds that only your bid was rejected by Melissa McConnell on October 18, 2023 explaining that the prerequisite to bidding—joining the Bidder's List by October 11, 2023—had not been met. Following review and analysis of the protest, I have determined that your protest lacks merit for the reasons stated below.

I. Background Facts.

A. Timeline of Pertinent Events.

- Bids were publicly opened on October 17, 2023 at 2:00 p.m.
 - As-read aloud, bid results ranked as follows:
 1. B&M Builders
 2. Doug Veerkamp General Engineering ("DVGE")
 3. Central Valley Engineering and Asphalt ("CVEA")
- October 17 at 11:10 a.m.—the City received a notification from Public Purchase, the bidding vendor, that "B&M added themselves to the Plan Holder List" on October 17. (See, Attachment 1, email from Public Purchase to McConnell).

Patrick Mullen

Re: Response to Placerville Broadway Sidewalks Project Bid Protest

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- October 18 – the City notified B&M that their bid did not meet the prerequisite of being on the Plan Holder List by **October 11**, 6 days prior. (See, Attachment 2, McConnell email to B&M Estimating, dated October 18).
- October 20 – the City received B&M's Bid Protest.
- October 23 – a Bid Protest was received from Doug Veerkamp General Engineering.¹
 - *The protest stated that B&M Builders was not on the Plan Holders List, and that they did not meet the DBE goal.*
- October 24 – per LAPM Exhibit 15-H requirements, the DBE Good Faith Effort paperwork was due.
 - B&M Builders did not submit Exhibit 15-H.
 - Bidders 2 and 3, DVGE and CVEA, submitted the required paperwork.
- October 26 – the DVGE Bid Protest was provided to B&M Builders, and the B&M Builders Bid Protest was provided to DVGE.
- October 27 – B&M Builders responded to the DVGE protest.
 - *Their email stated that they did not turn in their DBE Good Faith Effort paperwork because the City informed them that we cannot accept their bid. The email also said that "it was in the city's best interest to have the project rebid as there were numerous issues with the entire process."*
- October 27 – the City responded back to B&M stating that the DBE GFE should still have been submitted. This is true if B&M wished to be considered the lowest responsive bidder and have the City waive any irregularities, as they stated in their October 20, 2023 letter. (See, Attachment 3, email from McConnell to Patrick Mullen).

B. The Bid Protests.

1. B&M October 20, 2023 protest

The Bid Protest asserts, in part, the following:

"We have had issues bidding electronically on a number of websites such as Public Purchase and Planet Bids where bids have been dropped and dates had to be extended to accommodate all bidders because

¹ This bid protest is invalid because it was not submitted within the necessary timeframe set forth in the bid documents. Section 3-1.04 of the Special Provisions states that "Bid protests must be submitted in writing to the attention of the City Clerk before 4:00 p.m. of the third (3rd) business day following the bid opening." This does not change the analysis or conclusions of the City's response to B&M.



of suck [sic] glitches and issues...B&M Builders is addiment [sic] that we signed up on Public Purchase before the date required by the bid documents. The city has the right to waive any informality (non-responsiveness) or irregularity to best serve the interest of the City. So, if this is the reason for the rejection of our bid, how will this best serve the interests of the city, costing the city and tax payers almost \$54,856 in additional funds." (See Attachment 4).

2. DVGE Protest

On October 23, 2023, the City received a letter dated October 19, 2020 from DVGE. That letter protested B&M's bid on two grounds: "First, per Notice to Bidders, page N-2, 'bidders must be on the plan holders list through Public Purchase no later than October 11, 2023'" and B&M was not on that list by the deadline. Second, DVGE explained that the bid documents required "13% participation goal for disadvantaged business enterprises, as provided on the Notice to Bidders, page N-1...[but B&M] did not meet the stated goal...Furthermore, we do not believe they demonstrated a Good Faith Effort based on the DBE documentation supplied by B&M Builders." (See Attachment 5).

3. B&M Reply to DVGE Protest

In response to DVGE's letter, on October 27, 2023, B&M sent an email to City staff and explained that they did not turn in the DBE Good Faith effort paperwork due to the email received by staff stating that B&M's bid was being rejected. B&M also complained that they had not received a response from the City to their earlier email, did not post the results on Public Purchase, and it would be in the City's best interests to rebid the Project given their perceived issues with "the entire process." B&M appealed to the Project's projected start time and advocated that rebidding the Project would still allow the Project to start as scheduled. (See Attachment 6).

II. Analysis of Bid Protest.

A. Findings of Fact Regarding Bid Protest.

The City's investigation of this matter, including discussion with Engineering Staff, has disclosed the following, together with supporting evidence:

1. On October 17, 2023, the City received an automated email from a third-party vendor, Public Purchase, indicating that B&M had just signed up for the Plan Holder List. There is no reason to question that this happened, especially since the other bidders all qualified by the deadline. Furthermore, you have provided no evidence to substantiate that you were on the Plan Holder List prior to October 11, 2023 or any communications from Public Purchase to you to indicate they were experiencing technical difficulties that impacted their ability to see your submission prior to October 11, 2023.

2. The DBE Good Effort document was not submitted at all. You confirmed this in your email dated October 27, 2023.



B. Bid Requirements.

The City's bid packet for this Project stated unequivocally, **"In order to submit a bid on this project, bidders must be on the plan holders list through Public Purchase no later than October 11, 2023.** Only bidders on the plan holders list may submit a bid.... Bids will only be accepted from registered plan holders. (Emphasis in original.)

(<https://www.cityofplacerville.org/media/Engineering/Broadway%20Sidewalks/3rd%20Advertisement/1%20Bwy%20Sdwks%20Front%20End%20Docs%20-%20Book%201%20of%202.pdf>, page N-2)

Pursuant to Federal funding requirements, the City established a 13% "Disadvantaged Business Enterprise" ("DBE") Goal for this project. (See Attachment 7, Exhibit 15-G). If a bidder was unable to meet this goal, the bidder was required to demonstrate a good faith effort in doing so. These efforts were required to be disclosed in Exhibit 15-H of the bid documents. B&M did not submit this latter document, as required. These requirements were clearly provided in the bid documents. Page N-1, Notice to Bidders, stated "DBE PARTICIPATION: The City has established there will be a disadvantaged business enterprise (DBE) contract goal of 13 percent. The Contractor is required to take the necessary and reasonable steps to ensure that DBEs have opportunity to participate in the Contract (49 CFR 26.13(b)). Additional information and requirements provided as Exhibit B to the Contract.)"

C. Legal Background of Public Bidding.

The basic tenet of competitive bidding is that the bids must conform to the specifications.

Public Contract Code section 1601(a)(2) allows the City to use Public Purchase in the bidding process. That section provides, "(a) Any public entity may adopt methods and procedures to... Receive supporting materials submitted pursuant to a public works contract over the Internet. For purposes of this section, "supporting materials" includes, but is not limited to, payment requests, shop drawings, schedules, notices of claims, and certified payrolls."

Public Contract Code section 2000 states "(a) Notwithstanding any other provision of law requiring a local agency to award contracts to the lowest responsible bidder, any local agency may require that a contract be awarded to the lowest responsible bidder who also does either of the following:

(1) Meets goals and requirements established by the local agency relating to participation in the contract by minority business enterprises and women business enterprises. If the bidder does not meet the goals and requirements established by the local agency for that participation, the local agency shall evaluate the good faith effort of the bidder to comply with those goals and requirements as provided in paragraph

(2). (2) Makes a good faith effort, in accordance with the criteria established pursuant to subdivision (b), prior to the time bids are opened, to comply with the goals and requirements established by the local agency relating to participation in the contract by minority or women business enterprises.

"A bid is responsive if it promises to do what the bidding instructions demand." (*Taylor Bus Service, Inc. v. San Diego Bd. of Education* (1987) 195 Cal.App.3d 1331.) Doing "what the bidding instructions demand" encompasses all of the procedures and the substance of the bid. The bid documents required all bidders to sign up with Public Purchase to be on the Plan Holder List by October 11, 2023 and submit certain DBE documentation.



Patrick Mullen
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D. Analysis.

B&M's bid was incomplete, inadequate, and non-responsive because it failed to comply with the prerequisites to bidding. For this reason alone, the City may reject the bid. The Bid Packet clearly indicates that prospective bidders must be on the Plan Holder List through Public Purchase no later than October 11, 2023. There is no evidence to indicate B&M complied with this requirement. On the contrary, the City received a notification from Public Purchase that B&M complied with this requirement after the deadline, on October 17, 2023, six days after the deadline.

As indicated above, the bid documents required a 13% DBE goal and good faith efforts to be shown if the goal could not be met. B&M did not meet the 13% requirement when it proposed 0.45%. In addition, B&M did not submit Exhibit 15-H explaining its good faith effort as required in federally funded projects. It is not the City's responsibility to educate or inform prospective bidders of their obligations. In your email correspondence, you concede that the requisite documents were not submitted.

Finally, while it is true that the City reserves the right to waive minor irregularities, it is the City's option to exercise that discretion as long as the waiver would not affect the amount of the bid or proposal or give a competitive advantage upon the bidder or proposer over others. Here, it would be unfair to the other bidders who complied with all bid instructions to overlook B&M's omissions and further leaves the City open to additional protests from the other prospective bidders.

The City uses Public Purchase in the first place because it provides one centralized location to accurately track and maintain time sensitive materials and requirements connected with the individual project and bidding requirements. It is used as not only a tool for the agency, but also for the prospective bidders, and ensures that no one is left out in the exchange of information. For this Project, the City held a mandatory pre-bid meeting to ensure that the City delivered the same information to all interested bidders. Following the mandatory pre-bid meeting, those wishing to submit a bid were required to join the Plan Holder List in order to submit a bid on the Project. This process ensures that any addenda issued by the City are distributed to those on the list wishing to submit a bid on the Project.

IV. Conclusion.

For the foregoing reasons, it is the City's position that the Bid Protest lacks merit and B&M did not qualify to submit a bid in the first place.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation



MONA G. EBRAHIMI

Attachments as stated.

cc: Matt Veerkamp (via email)



ATTACHMENT 1



City of
Placerville

Melissa McConnell <mmcconnell@cityofplacerville.org>

Vendor Added to Plan Holder List for Bid RFP #41606-3 - Broadway Sidewalks, CIP # 41606, HSIPL 5015(028).

1 message

Public Purchase <notices@publicpurchase.com>
Reply-To: Public Purchase <support@publicpurchase.com>
To: Melissa McConnell <mmcconnell@cityofplacerville.org>

Tue, Oct 17, 2023 at 11:10 AM

Melissa McConnell:

The vendor B & M Builders, Inc. has just added themselves to the Plan Holder List for bid RFP #41606-3 - Broadway Sidewalks, CIP # 41606, HSIPL 5015(028).

You can change the Plan Holder List at any time from the Vendor Invitation page.

Thank you for using Public Purchase.

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ATTACHMENT 2



Melissa McConnell <mmcconnell@cityofplacerville.org>

Broadway Sidewalks Project - Bid

1 message

Melissa McConnell <mmcconnell@cityofplacerville.org>
To: B&M Estimating Department <estimating@bm-builders.com>

Wed, Oct 18, 2023 at 10:13 AM

Hi Erica,

I tried to call your office this morning but the phone kept ringing. I wanted to follow up with you regarding the B&M Builders' bid and proposal submitted yesterday for the Broadway Sidewalks Project. Following the bid opening, the City performed a comprehensive review of the packages submitted by each contractor according to City and LAPM standard procedures, and to check that each bidder had provided all of the documents required of the project Bid Documents.

Unfortunately, it came to our attention that one critical deadline was not met by B&M Builders, Inc.:

*On Page 2 of the Notice to Bidders, it states, "In order to submit a bid on this project, **bidders must be on the plan holders list through Public Purchase no later than October 11, 2023.** Only bidders on the plan holders list may submit a bid."*

B&M Builders was only added to the Planholders List on Public Purchase yesterday, October 17, 2023 (please see attached notification email that I received from Public Purchase).

As such, I regret to inform you that we cannot accept your bid and it must be rejected.

Please feel free to give me a call if you wish to discuss this matter or if you have any questions.

Thanks!

Melissa McConnell, P.E.

Senior Civil Engineer
City of Placerville
3101 Center Street
Placerville, CA 95667
(530) 642-5250
mmcconnell@cityofplacerville.org

 **Public Purchase Notice_B&M.pdf**
137K



City of
Placerville

Melissa McConnell <mmcconnell@cityofplacerville.org>

Vendor Added to Plan Holder List for Bid RFP #41606-3 - Broadway Sidewalks, CIP # 41606, HSIPL 5015(028).

1 message

Public Purchase <notices@publicpurchase.com>
Reply-To: Public Purchase <support@publicpurchase.com>
To: Melissa McConnell <mmcconnell@cityofplacerville.org>

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Melissa McConnell:

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You can change the Plan Holder List at any time from the Vendor Invitation page.

Thank you for using Public Purchase.

MK= bTJbkvKV9UQ0k+SqJotMwg==

ATTACHMENT 3



Melissa McConnell <mmccconnell@cityofplacerville.org>

Re: Broadway Sidewalks Project - Bid Protest

1 message

Melissa McConnell <mmccconnell@cityofplacerville.org>

Fri, Oct 27, 2023 at 2:25 PM

To: Patrick Mullen <pmullen@bm-builders.com>

Cc: Rebecca Neves <rneves@cityofplacerville.org>, "William L. Porter" <bporter@porterlaw.com>

Hi Patrick,

On a phone call with you on October 18th, 2023, following my email, you informed me that you planned to provide a written protest. As such, I reminded you at the end of that call to submit your DBE Good Faith Effort within the required timeline. The intent of your formal bid protest was for the City to waive any informality of the bid (or non-responsiveness), but a DBE Good Faith Effort should still have been submitted as it is a requirement of the federal funding and requirement of the contract award.

Thanks,

Melissa McConnell, P.E.

Senior Civil Engineer

City of Placerville

3101 Center Street

Placerville, CA 95667

(530) 642-5250

mmccconnell@cityofplacerville.org

On Fri, Oct 27, 2023 at 1:40 PM Patrick Mullen <pmullen@bm-builders.com> wrote:

Melissa,

We did not turn in our DBE Good Faith effort paperwork due to the email we received from you on October 18th stating "I regret to inform you that we cannot accept your bid and it must be rejected." Further, the city had not responded to our protest of that email before the documents were due and the city did not post the results from our proposal, which was opened publicly with the other bidders whose results were posted on Public Purchase. At this point we believe it is in the city's best interest to have this project rebid as there were numerous issues with the entire process. B & M did perform the good faith effort as required by the bid documents, showed up to the mandatory prebid, signed up on Public Purchase as a bidder on October 3rd after the mandatory meeting, and were the low bidder for the second time on this project. The projects projected start time and timeline provides plenty of time to rebid this project and still start on schedule with plenty of time to spare. The city would already be saving money over the first two times the project was bid if Public Purchase would have recognized when we actually put ourselves on the bidders list and if the city did not choose to reject our bid for an informality that could have and should have been waived.

Thank you,

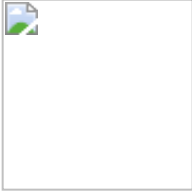
Patrick Mullen

B & M Builders, Inc.

CA Lic. 861848 | DIR 1000003277

11330 Sunrise Park Dr, Ste C. Rancho Cordova, CA 95742

📞 916.638.8626 | 📠 916.862.0095 | 📠 916.352.6944



On Thu, Oct 26, 2023 at 2:15 PM Melissa McConnell <mmcconnell@cityofplacerville.org> wrote:

Hi Patrick,

The City received the attached Bid Protest from Doug Veerkamp General Engineering, Inc. regarding the Broadway Sidewalks Project bids opened on October 17, 2023. You are welcomed to provide a written response to this protest. If you choose to respond, please transmit a copy of the response to the protesting Bidder concurrent with delivery to the City.

Please also note that according to the Broadway Sidewalks Bid Documents and the requirements of federal funding, bidders who do not meet the contract DBE goal are required to submit their DBE Good Faith Efforts (Exhibit 15-H) within five (5) business days from bid opening. By the close of business on Tuesday, October 24, 2023, the City did not receive the required documentation of the GFE from B&M Builders.

Please reach out if there are any questions.

Thanks,

Melissa McConnell, P.E.

Senior Civil Engineer

City of Placerville

3101 Center Street

Placerville, CA 95667

(530) 642-5250

mmcconnell@cityofplacerville.org

ATTACHMENT 4



B&M Builders, Inc.
11330 Sunrise Park Drive, Ste. C
Rancho Cordova, CA 95742
Phone: (916) 638-8626
Fax: (916) 352-6944
Lic. No. 861848 A, B, C-54, C-31, C-8

To the Office of the City Clerk, City of Placerville,

Please consider this our official bid protest to the email received from Melissa McConnell on October 18th 2023 at 10:13am for the "Broadway Sidewalks CIP # 41606-3, HSIPL 5015(028)" project, stating that "the city cannot accept your bid and it must be rejected." The email also stated that we joined the Bidders List on October 17th and provided an email received by the city showing when we joined. While yes, B&M Builders did again add ourselves to the bidders list on the 17th it was only because of an irregular email we received at our service@bm-builders.com on the same day. These websites have frequent glitches and issues. Why would Public Purchase send an email the day of the bid if we were required to be signed up by October 11th, 2023. We have had issues bidding electronically on a number of websites such as Public Purchase and Planet bids where bids have been dropped and dates had to be extended to accommodate all bidders because of suck glitches and issues.

B&M Builders Inc. attended the mandatory pre bid meeting and signed up on Public Purchase on the same day of the mandatory prebid meeting, October 3rd, 2023. Public Purchase does not send email confirmations to contractors at the time they sign up on the website. This is the 2nd time we have bid on this project, and we were the lowest bidder both times. The first time our proposal was thrown out because of lack of funding. We were informed that the amount the city had budgeted and had available did not meet the requirements of having a 10% contingency for additional work or change orders at the time, but they were told by Cal Trans that the funding necessary for the project would be available in October, the start of Cal Trans fiscal year. We informed the city that this is a project we want to perform for them and the taxpayers and told them that we were willing to hold our bid numbers and contract at the amount bid through November 2023. We were told that the city would not do this because it was beyond the 60-day award period. We agreed to waive this period and hold our number as stated above. The second time this project was bid we were the lowest bidder by \$266,751 after the original and sole bidder of the project the first time it was advertised, Central Valley Engineering and Asphalt, raised their price by 13% on the first rebid. The second time this project was re-bid, the 3rd time bids were accepted for the project, we jumped through all the hoops necessary; joining the mandatory prebid on site (even though the first rebid did not have a mandatory prebid as the city was "hoping that strategy would enable more contractors to submit a bid." Quote taken from the City Managers Report dated August 8th, 2023. If it was the city's goal to enable more contractors to submit a bid, why make it more difficult for contractors to bid on a project. We joined the Public Purchases Bidder List (who does not show confirmation of being added to the list to contractors), and went through the trouble of preparing another bid, performing DBE good faith efforts that are required for Cal Trans funding, notated all addendums and cut our bid by an additional \$101,608 to help make sure there was sufficient funding for the project to move forward. THIS IS IN THE BEST INTEREST OF THE CITY. Now it seems as though the city is not interested in the city's best interest and is trying to reject our bid for not being signed up on Public Purchase, which is an informality/ irregularity. This unnecessary step is a redundancy as the mandatory pre bid should be an adequate measure of who is on the bidders list.

We were very understanding with the city the first time we got rejected because of funding, even though your specifications state; "The department may extend the specified award period if the bidder agrees." We informed the city after the June 20th bid date that we would honor our price if they wanted to extend the award period, to no avail. Now to the most current bid, Oct. 17, 2023, we lowered our price as stated above to help the city and taxpayers and were the lowest bidder again and are now having to deal with another informality, possibly getting our bid thrown out again.

Your specifications say "The City of Placerville reserves the right after opening bids to reject any or all bids, to waive any informality (non-responsiveness) or irregularity in a bid, or to make award to the lowest responsive, responsible Bidder



B&M Builders, Inc.
11330 Sunrise Park Drive, Ste. C
Rancho Cordova, CA 95742
Phone: (916) 638-8626
Fax: (916) 352-6944
Lic. No. 861848 A, B, C-54, C-31, C-8

and reject all other bids, as it may best serve the interest of the City". This is an informality that has nothing to do with the way the project was bid and the way the project will be performed other than saving the City and taxpayers

B&M Builders is addiment that we signed up on Public Purchase before the date required by the bid documents. The city has the right to waive any informality (non-responsiveness) or irregularity to best serve the interest of the City. So, if this is the reason for the rejection of our bid, how will this best serve the interests of the city, costing the city and tax payers almost \$54,856 in additional funds.

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

Patrick Mullen

President

B & M Builders, Inc

ATTACHMENT 5

Doug Veerkamp

**GENERAL
ENGINEERING INC.**

www.dougveerkamp.com

— *Since 1983* —

-LIC. 440233-

10/19/2023

Sent via email

City of Placerville
Engineering Department
3101 Center Street
Placerville, CA 95667
Attn: Regina O'Connell, City Clerk

Re: **Broadway Sidewalks**
Project No. HSIPL 5015 (028)
CIP #41606
Bid Protest

Dear Ms. O'Connell,

Please accept this letter as a formal protest to the initial bid results for the Broadway Sidewalks Project that bid on October 17, 2023, at 2:00PM, see project reference above. After reviewing the Project and Bid Documents, we believe there are two valid reasons to reject the low bid from B & M Builders, Inc. First, per the Notice to Bidders, page N-2, "bidders must be on the plan holders list through Public Purchase no later than October 11, 2023. Only bidders on the plan holders list may submit a bid." B&M builders was not on the Plan Holders List on Public Purchase by the deadline of October 11, 2023. The second reason is related to the 13% participation goal for disadvantaged business enterprises, as provided on the Notice to Bidders, page N-1. Per the bid documents provided by B & M Builders they did not meet the stated goal of 13% participation. Furthermore, we do not believe they demonstrated a Good Faith Effort based on the DBE documentation supplied by B & M Builders.

We appreciate your consideration of this letter and look forward to your response. Please do not hesitate to contact me with any questions.

Thank you,



Eric Wunschel

Cc: Rebecaa Neves, rneves@cityofplacerville.org, Melissa McConnell, mmcconnell@cityofplacerville.org

ATTACHMENT 6



Melissa McConnell <mmcconnell@cityofplacerville.org>

Re: Broadway Sidewalks Project - Bid Protest

1 message

Patrick Mullen <pmullen@bm-builders.com>

Fri, Oct 27, 2023 at 1:40 PM

To: Melissa McConnell <mmcconnell@cityofplacerville.org>

Cc: Rebecca Neves <rneves@cityofplacerville.org>, "William L. Porter" <bporter@porterlaw.com>

Melissa,

We did not turn in our DBE Good Faith effort paperwork due to the email we received from you on October 18th stating "I regret to inform you that we cannot accept your bid and it must be rejected." Further, the city had not responded to our protest of that email before the documents were due and the city did not post the results from our proposal, which was opened publicly with the other bidders whose results were posted on Public Purchase. At this point we believe it is in the city's best interest to have this project rebid as there were numerous issues with the entire process. B & M did perform the good faith effort as required by the bid documents, showed up to the mandatory prebid, signed up on Public Purchase as a bidder on October 3rd after the mandatory meeting, and were the low bidder for the second time on this project. The projects projected start time and timeline provides plenty of time to rebid this project and still start on schedule with plenty of time to spare. The city would already be saving money over the first two times the project was bid if Public Purchase would have recognized when we actually put ourselves on the bidders list and if the city did not choose to reject our bid for an informality that could have and should have been waived.

Thank you,

Patrick Mullen

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www.bm-builders.com



On Thu, Oct 26, 2023 at 2:15 PM Melissa McConnell <mmcconnell@cityofplacerville.org> wrote:

Hi Patrick,

The City received the attached Bid Protest from Doug Veerkamp General Engineering, Inc. regarding the Broadway Sidewalks Project bids opened on October 17, 2023. You are welcomed to provide a written response to this protest. If you choose to respond, please transmit a copy of the response to the protesting Bidder concurrent with delivery to the City.

Please also note that according to the Broadway Sidewalks Bid Documents and the requirements of federal funding, bidders who do not meet the contract DBE goal are required to submit their DBE Good Faith Efforts (Exhibit 15-H) within five (5) business days from bid opening. By the close of business on Tuesday, October 24, 2023, the City did not receive the required documentation of the GFE from B&M Builders.

Please reach out if there are any questions.

Thanks,

Melissa McConnell, P.E.

Senior Civil Engineer

City of Placerville

3101 Center Street

Placerville, CA 95667

(530) 642-5250

mmcconnell@cityofplacerville.org

ATTACHMENT 7

EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS

Cost Proposal Due Date _____ PE/CE

Federal-aid Project No(s). _____ Bid Opening Date _____

The City of Placerville established a Disadvantaged Business Enterprise (DBE) goal of 13% for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) business days from bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer's or bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled "Submission of DBE Commitment" of the Special Provisions, **please attach additional sheets as needed:**

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

| Publications | Dates of Advertisement |
|--------------|------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

| Names of DBEs Solicited | Date of Initial Solicitation | Follow Up Methods and Dates |
|-------------------------|------------------------------|-----------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to met or exceed the DBE contract goal.

| Items of Work | Proposer or Bidder Normally Performs Item (Y/N) | Breakdown of Items | Amount (\$) | Percentage Of Contract |
|---------------|---|--------------------|-------------|------------------------|
|---------------|---|--------------------|-------------|------------------------|

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

| Name of Agency/Organization | Method/Date of Contact | Results |
|-----------------------------|------------------------|---------|
| | | |
| | | |
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| | | |

H. Any additional data to support a demonstration of good faith efforts:
