



December 19, 2023

Via E-Mail

City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

E-Mail: [cityclerkgroup@cityofgoleta.org](mailto:cityclerkgroup@cityofgoleta.org)

Attn: Deborah S. Lopez, City Clerk

Re: Bid Protest Hearing - Ekwill Street and Fowler Road Extensions Project (Includes the Hollister Avenue/Route 217/Undercrossing Project) and Hollister Avenue Bridge Replacement Project

Dear Ms. Lopez,

Granite's bid protest presents compelling facts that the City should deem Security Paving Company's (SPC) bid NON-RESPONSIVE. SPC did not comply with the bidding requirements for the project. SPC failed to demonstrate Good Faith Efforts (GFE) to meet the Disadvantaged Business Enterprise (DBE) project goal and failed to list a qualified subcontractor to perform the Restoration Contractor Mitigation Work. **SPC's bid does not comply with the bidding requirements for the project and should be rejected.**

The City ignored Granite's DBE Good Faith Efforts in its analysis which is a clear violation of the review guidelines which state:

"At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. ...Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule."

The result of Granite's successful good faith efforts to make the 21% DBE project goal, was that Granite's bid included \$16.4 million of DBE participation from eighteen (18) of the 23 DBE firms that provided a quote. SPC achieved only \$6.4 million DBE participation (less than half the project goal) and utilized only seven (7) DBE firms. **SPC did not take ALL necessary and reasonable steps to achieve the DBE goal.**

Caltrans independently determined that SPC did not make ALL necessary and reasonable steps to achieve the DBE goal. Caltrans' determination is not merely an "opinion" as labeled by City staff.

Caltrans is responsible for oversight of the DBE Program in California and is tasked to ensure consistent application of the federal regulations throughout the state at all levels. Their determination should not be ignored or trivialized on any project, including projects that receive Federal funds.

SPC's letter dated 11/14/23 (Exhibit F) verifies SPC did not comply with the subcontractor listing bid requirements for the project. SPC states that Endemic Environmental Services (EES) will perform the Restoration Contractor Mitigation Work, however, SPC falsely states that the subcontract value of the work is \$174,226 which is the amount for Bid Item 16 only. Conversely, the total dollar value of work committed to be performed by EES on SPC's DBE Commitment Form is \$352,426. If SPC commits to using EES in the amount of \$352,436 (as shown on the DBE Commitment Form), SPC must include EES on the Bid List of Subcontractors.

Further, since SPC did not list EES or any other subcontractor to perform the Restoration Contractor Mitigation Work, SPC must self-perform the work. SPC does not, however, have the project-mandated qualifications to perform the work. **Therefore, SPC failed to meet the contract requirement for listing a qualified subcontractor to perform the Restoration Contractor Mitigation Work and their bid should be rejected.**

The good faith efforts of each bidder must be evaluated fairly, objectively, and equally to ensure a level playing field for all bidders and to preserve (and not jeopardize) the purpose of competitive bidding (i.e. guarding against favoritism, improvidence, extravagance, fraud and corruption). The inconsistent or arbitrary evaluation of a bidder's GFE should not be the vehicle through which public contracts are awarded. **Most importantly, Granite's bid materially changes if Granite does not meet the DBE goal similar to SPC.**

As a long-standing member of the community, Granite understands the City's funding constraints on the project. Granite does not seek a "\$14.7M windfall at the expense of the taxpayers," Granite seeks a level playing field for all bidders. In light of the City's funding constraints, **Granite requests the City reject all bids and rebid the project with a level playing field where all bidders are required to comply with the bidding requirements for the project.**

Respectfully submitted,  
GRANITE CONSTRUCTION COMPANY



Larry Camilleri, P.E.  
Vice President Regional Operations  
Central California

cc: Reinie Jones, Caltrans District 5 Local Assistance Engineer ( [reinie.jones@dot.ca.gov](mailto:reinie.jones@dot.ca.gov) )