



550 GREENVILLE ROAD
LIVERMORE CA 94550
(925) 245-1300 OFFICE

August 27, 2020

City of Emeryville
Public Works Department, Engineering Division
1333 Park Avenue
Emeryville, CA 94608

Attn: Mary Houlihan, Public Works Director

*sent via email mhoulihan@emeryville.org
public_works@ci.emeryville.ca.us*

Re: EPW-19103 – San Pablo Avenue Midblock Crosswalk Project

Subject: Bid Protest of Burch Construction Company bid

Dear Madam Director,

Please consider this letter a formal protest pursuant to Section 2-1.48 of the Project Specifications. The bid submitted by Burch Construction Company is nonresponsive and must be rejected based on its failure to follow the requirements of Section 2-1.10, Subcontractors List, and improperly listing the work to be performed by its listed subcontractors. The requirements of Section 2-1.10 are very clear and specific:

For each subcontractor listed, the Subcontractors List form must show:

- 1. Business name and the location of its place of business*
- 2. California Contractor license number*
- 3. Department of Industrial Relations contractor registration number*
- 4. Portion of work it will perform. Show portion of work by:*
 - 4.1 Bid item numbers for the subcontracted work*
 - 4.2 Dollar Value and percentage of the subcontracted work for each bid item*
 - 4.3 Description of the subcontracted work if the percentage of the bid item listed is less than 100 percent.*

Burch Construction failed to correctly list the percentage of the subcontracted work for each bid item and failed to provide a description of the work if the percentage of the bid item listed was less than 100 percent.

Burch listed Sierra Traffic for Items 2, 3, 6, 7 & 8, providing the dollar value of Work to be \$7,500.00. It also listed the percentage of the Items to be performed as 5%. Is Burch performing the remaining 95% of the work? If so, what part of the item are they performing and what part of the item is Sierra Traffic performing? Comparison of Sierra Traffic's bid day quote to Burch's bid price leads to even greater confusion as to what Sierra Traffic's work is valued at and what was listed.

Item 2 – Mobilization	Sierra Traffic Bid	\$ 2,000.00
	Burch Bid	\$15,000.00
	Percentage of Item	13.3% - not 5%

Item 3 – Traffic Control	Sierra Traffic Bid	\$1,500.00
	Burch Bid	\$20,000.00
	Percentage of Item	7.5% - not 5%
Item 6 – Thermo Pvmt Mks	Sierra Traffic Bid	\$ 450.00
	Burch Bid	\$ 675.00
	Percentage of Item	66.6% - not 5%
Item 7 – Thermo Pvmt Mks	Sierra Traffic Bid	\$ 3,360.00
	Burch Bid	\$ 4,800.00
	Percentage of Item	70% - not 5%
Item 8 – Thermo Traf Stripe	Sierra Traffic Bid	\$ 540.00
	Burch Bid	\$ 900.00
	Percentage of Item	60% - not 5%

Even if one takes all the items combined, which is not what is required, the total work listed does not equal the percentage listed by Burch.

All items combined	Sierra Traffic Bid	\$7,850.00
	Burch Bid	\$41,375.00
	Percentage of Items	19% - not 5%

Burch listed Gremelli Industries for Item 10, providing the dollar value of Work to be \$40,000.00. It also listed the percentage of the Item No. to be performed as 25%. Is Burch performing the other 75% of the work? If so, what part of the item are they performing and what part of the item is Gremelli performing? Comparison of Gremelli's bid day quote to Burch's bid price leads to even greater confusion as to what Gremelli's work is valued at and what was listed.

Item 10 – Enhanced Crosswalk Signage System		
	Gremelli Bid	\$40,000.00
	Burch Bid	\$50,000.00
	Percentage of Item	80.0% - not 5%

Burch listed Ahlborn Fence for Item 9, providing the description of the work as fencing (not Metal Cable Railing) and the dollar value of Work to be \$8,000.00. It also listed the percentage of the Item No. to be performed as 5%. Is Burch performing the remaining 95% of the work? If so, what part of the item are they performing and what part of the item is Ahlborn performing? Comparison of Ahlborn's bid day quote to Burch's bid price leads to even greater confusion as to what Ahlborn's work is valued at and what was listed.

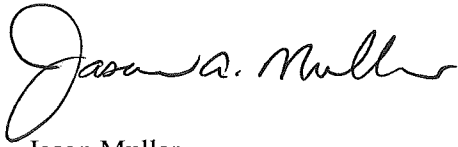
Item 9– Metal Cable Railing	Ahlborn Bid	\$8,000.00
	Burch Bid	\$11,500.00
	Percentage of Item	70.0% - not 5%

Vanguard's review of the bid day quotations received from these subcontractors (copies attached) reveals that with the exception of Sierra Traffic's quote for traffic control, all of them intended to perform 100% of the work items they quoted, not 5% and not 25%.

The specifications are very clear on the requirements of listing subcontractor information, value of the work and the intent to perform all or a portion of the work. The submittal provided by Burch does not meet

those stringent requirements and therefore Burch Construction's bid should be considered non-responsive and the project should be awarded to Vanguard Construction.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason A. Muller". The signature is fluid and cursive, with the first name "Jason" being more prominent.

Jason Muller

Cc: Burch Construction
180 Mendell Street
San Francisco, CA 94124

Encl.

BID RESULTS				Analysis of Bid No. EPW-19103					
EPW-19103 SAN PABLOE AVENUE MIDBLOCK CROSSWALK PROJECT EMERYVILLE, CALIFORNIA				Bid Opening Date: 08/25/2020					
Engineer's Estimate = \$235,000				Lowest Responsive Bidder: Burch Construction Company Total Bid is: \$155,375.00 Which is: 34.16% Under Engineer's Estimate		2nd Lowest Bidder: FBD Vanguard Construction, Inc. Total Bid is: \$167,935.00 Which is: 28.84% Under Engineer's Estimate		3rd Lowest Bidder: Sposeto Engineering, Inc. Total Bid is: \$181,625.00 Which is: 23.04% Under Engineer's Estimate	
No.	CONTRACT BID ITEMS	Quantity	Unit	Unit Price (\$)	Amount (\$)	Unit Price (\$)	Amount (\$)	Unit Price (\$)	Amount (\$)
INCIDENTAL ITEMS									
	Note: All items subject to any special notes or footnotes appearing on this Engineer's estimate included with the bid documents.	.....	.....	.....	.....	.....	.....	.....	.....
	Note: The Contract lump sum or unit price for each Contract Bid Item shall include full compensation for all labor, materials, tools, taxes, profit, overhead, incidentals and appurtenant work necessary for performing and completing the work of the Contract Bid Item as required by the Project Plans, Specifications, Special Provisions and other Contract Documents. Such compensation shall also include or take into consideration any additional provisions or conditions specifically stated immediately following the Contract Bid Item.	.....	.....	.....	.....	.....	.....	.....	.....
	Note: In the absence of a specific bid item or specific payment provisions for any portion of the work required by the Contract Documents, the bidder shall include the bidder's compensation for that portion of the Contract work in the Contract unit price(s) and/or lump sum price(s) of the bid item(s) that require such work, or are closely related to such work. Therefore, no separate or additional payment will be made to the Contractor for any such work on the premise that such work lacks specific bid item(s) or specific payment provisions.	.....	.....	.....	.....	.....	.....	.....	.....
	Note: "(P)" adjacent to a Contract bid item designates a "Partial Pay Item"	.....	.....	.....	.....	.....	.....	.....	.....
	Note: "(F)" adjacent to a Contract bid item designates a Final Pay Quantity	.....	.....	.....	.....	.....	.....	.....	.....
	Note: "(S)" adjacent to a Contract bid item designates a "Specialty Item"	.....	.....	.....	.....	.....	.....	.....	.....
1	Supplemental Work	20,000	EA	\$1.00	\$20,000.00	\$1.00	\$20,000.00	\$1.00	\$20,000.00
2	Mobilization	1	LS	\$15,000.00	\$15,000.00	\$12,000.00	\$12,000.00	\$12,500.00	\$12,500.00
3	Traffic Control System	1	LS	\$20,000.00	\$20,000.00	\$19,000.00	\$19,000.00	\$48,000.00	\$48,000.00
4	Water Pollution Control	1	LS	\$7,500.00	\$7,500.00	\$900.00	\$900.00	\$2,500.00	\$2,500.00
5	Construct Median Passthrough and Curb Ramps	1	LS	\$25,000.00	\$25,000.00	\$54,950.00	\$54,950.00	\$31,500.00	\$31,500.00
6	Thermoplastic Pavement Markings (Yield Lines)	45	SF	\$15.00	\$675.00	\$13.00	\$585.00	\$15.00	\$675.00
7	Thermoplastic Pavement Markings, White Crosswalk	320	SF	\$15.00	\$4,800.00	\$11.00	\$3,520.00	\$13.00	\$4,160.00
8	Thermoplastic Traffic Stripe, 4-in. White Stripe	180	LF	\$5.00	\$900.00	\$11.00	\$1,980.00	\$13.00	\$2,340.00
9	Metal Cable Railing	1	LS	\$11,500.00	\$11,500.00	\$9,000.00	\$9,000.00	\$10,000.00	\$10,000.00
10	Furnish and Install Enhanced Crosswalk Signage System, RRFB	1	LS	\$50,000.00	\$50,000.00	\$46,000.00	\$46,000.00	\$49,950.00	\$49,950.00
TOTAL FOR BID ITEMS					\$155,375.00		\$167,935.00		\$181,625.00

Other Bids	
Kerex Engineering	\$187,490.00
ERA Construction, Inc.	\$187,983.40
HM Construction, Inc.	\$229,000.00
Ray's Electric	\$279,455.00
Bay Construction Company	\$335,175.00
Non Responsive Bids	

SECTION 6
SUBCONTRACTORS LIST

In accordance with Section 2-1.10 "Subcontractors List" of the Standard Specifications for this Contract, the following list of Subcontractors is submitted with the Proposal and made a part thereof.

1. Name of Subcontractor/Supplier Sierra Traffic
License No. 755317
Dept. of Industrial Relations Registration No. 1000002783
Address 9725 Del Road Roseville
Work to be Performed Striping
Bid Sheet Item No. 2,3,6,7,8
Percentage of Item No. to be Performed 5%
Dollar Value of Work \$7,500.00

2. Name of Subcontractor/Supplier Gremelli Industries
License No. 1038200
Dept. of Industrial Relations Registration No. 10000057095
Address 369 3rd Street San Rafael
Work to be Performed Electrical
Bid Sheet Item No. 10
Percentage of Item No. to be Performed 25%
Dollar Value of Work \$40,000.00

3. Name of Subcontractor/Supplier Ah L Boun Fence
License No. 793564
Dept. of Industrial Relations Registration No. 1000001160
Address 1230 Century Ct Santa Rosa
Work to be Performed Fencing
Bid Sheet Item No. 9
Percentage of Item No. to be Performed 5%
Dollar Value of Work \$8,000.00

4. Name of Subcontractor/Supplier _____



SIERRA TRAFFIC MARKINGS, INC.
9725 DEL ROAD SUITE B
ROSEVILLE, CA. 95747

"UNION CONTRACTOR"
Laborers Local 185
CA. LIC. #755317 C-32 Exp. 3-31-2022
FED I.D. #27-1699985
State of California SBE #1555640
Bond Rate 1% (Minimum \$300)
DIR Registration #1000002783

PHONE: (916) 774-9080
FAX: (916) 774-9088

ESTIMATE

ESTIMATE #	20-1391
DATE:	8/24/2020
BID DATE:	8/25/2020

ATTN:

TO:

PHONE:

FAX:

EMAIL:

MULTI - Contractor Bidding

PROJECT:

ADDRESS:

CITY:

PROJECT #:

ESTIMATOR:

CERTIFIED PAYROLL:

San Pablo Ave Midblock XWalk

Emeryville, CA

EPW-19103

Andre Acia

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
	SAN PABLO AVENUE MIDBLOCK CROSSWALK PROJECT, PROJECT NO. EPW-19103				
2.	Mobilization	1	LS	2,000.00	2,000.00
3.	Traffic Control System - Striping Only	1	LS	1,500.00	1,500.00
6.	Thermoplastic Pavement Markings (Yield Lines)	45	SF	10.00	450.00
7.	Thermoplastic Pavement Markings, White Crosswalk	320	SF	10.50	3,360.00
8.	Thermoplastic Traffic Stripe, 4-In. White Stripe	180	LF	3.00	540.00
NOTE: This Estimate INCLUDES the Following Items: A) 1 Mobilization to Jobsite Additional Mobilization to Jobsite will be \$2,000.00 EA B) Traffic Control For Sierra Traffic Markings (Does NOT Include Detours) Striping Only C) Thermoplastic D) Enhanced Wet Night Visibility NOTE: This Estimate EXCLUDES the Following Items: A) Traffic Control Plans B) Removal of Existing Thermoplastic Striping and Markings C) Posting/Notifications/USA-811 D) HazMat Removal and Disposal of Yellow Striping/Markings E) Power Washing Existing Surface Prior to Striping F) Signs & Posts G) Red Curb For questions or concerns regarding this estimate please contact Andre Acia at 916-759-4474 (cell) or andre@sierratrafficmarkings.com					

ADDENDUMS ACKNOWLEDGED:

1-3

TOTAL

\$7,850.00

ACCEPTANCE OF THIS ESTIMATE: The above prices, specifications, and provisions are satisfactory and are hereby accepted. Sierra Traffic Markings Inc. is authorized to do the above mentioned work as specified. Payment will be made upon completion and/or receipt of invoice.

ACCEPTED BY: _____

TITLE: _____

DATE OF ACCEPTANCE: _____

PO NUMBER: _____ **JOB NUMBER** _____

GREMELLI INDUSTRIES

A Richmond based Small Woman Owned Company
 Lic #1038200 DIR Reg# 1000057095 Small Bus 2010832
 Estimating 510-426-4581
 (CELL) 415-272-3868

Project: SAN PABLO AVENUE MIDBLOCK
 CROSSWALK PROJECT
 Location: EMERYVILLE, CALIFORNIA
 Date & Time: 8-20-20 @ 10AM
 Contract: Project No. EPW-19103

ITEM	Description	Quantity	Price	Total
10	Furnish and Install Enhanced Crosswalk Signage System, RRFB, (S)	1.00	40,000.00	40,000.00
TOTAL			\$	40,000.00

Scope of Work

YES	NO	
X		Addendums Noted 1,2,3
	X	Staking and Layout
	X	Testing and Inspection Fees
	X	Permits and Bonds
	X	Traffic Control Including Flaggers
	X	Portable Changeable Message Boards
	X	Off haul of Spoils
	X	Removal and Placement Asphalt, Sidewalk and Concrete
	X	Removal/Demo of Existing Signal and Lighting Foundations
	X	Regulatory Signs and Striping
	X	Handling of any hazardous materials and dust control
	X	Erosion Control and Storm Water Pollution Control Measures
	X	Set-up, removal & disposal of an environmentally approved wash out area for concrete
	X	Irrigation and/or landscape electrical or repair
X		Furnish and Install Light with Foundation
X		Pull Box and Conduit Installation
X		Trenching and Backfill for our Conduits
X		Furnish and Install Conductors as shown on the Plans

Clarification

Bids are based solely on the work shown on Sheets 4 & 5

- 1 Proposal based on working std 40 hrs, 5 day work week and mutually acceptable schedule
- 2 Monthly progress payments paid pursuant to Public Contract Code 10262 & 10262.5 and Section 7108.5 of the Business Professions Code Within 30 Days
- 3 Retention paid within 30 days after receiving payment for GI completed work, even if the other contract work is not complete and has not been accepted
- 4 This proposal is to be attached and/or included to any subcontract agreement by amendme
- 5 All plan revisions, changes and correspondence will be delivered to Gremelli main office
- 6 GI will have complete and unimpeded access to our entire work area
- 7 GI Standard insurance coverage's and does not include any special insurance rider's
- 8 Any contact Maintenance period is not included
- 9 No retention on Mobilization or Materials on Hand
- 10 Retention to Equal amount withheld from Owner to GC

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner in accordance to standard co practices to ensure economical an expeditious installation of the work. Any alteration or deviation for the above specifications covenants will result in extra costs over and above the cost heretofore described.



1230 CENTURY COURT
SANTA ROSA, CA 95403
P (707) 573-0742
F (707) 573-0788
www.ahlbornco.com

LICENSE# 793504
C-13 C-23 C-51

DIR# 1000001160

PROPOSAL

PROPOSAL #: 7924
PROJECT NAME: Midblock Crosswalk
PROJECT LOCATION: Emeryville, CA

REV #	DATE
0	8/25/20

All General Contractors Requesting Sub Bids

Ahlborn Fence & Steel, Inc. offers to provide materials and/or labor to complete the following work:

Misc. Metals (installed):

- Bid Item #9: Metal Cable Railing x 1 LS = \$8,170.00

Total for work as described above \$8,170.00

Acknowledgment of Addenda:

- Addendum #1
- Addendum #2
- Addendum #3

Project Specific Exclusions & Clarifications:

- Demolition & removal of existing materials is not included within the proposed scope of work.
- This proposal does not include an allowance for excavation conflicts below grade. Coring, jack-hammering, and general demolition/removal of any conflicts below the existing and obvious surface conditions can be performed on a time and material basis (as needed).
- All soils resulting from the excavation of the post footings are to be redistributed on the project site (off-hauling of soil material is not included within the proposed scope of work).
- All concrete work (mow strips, flatwork, cutting, patching, or otherwise) is to be provided by others unless otherwise indicated above.
- Painting, priming, staining, and/or all custom finishes are not included within the proposed scope of work unless otherwise indicated above.

All public works bids that have a bid opening date, Ahlborn Fence & Steel, Inc. must be notified within 10 days of bid date if listed as a subcontractor on this project. We reserve the right to withdraw our bid if not notified in this time frame.

EXCLUSIONS:

- Permits, bonds, and inspection fees are excluded.

- Ahlborn Fence & Steel, Inc. will be responsible for ordering a standard Underground Service Alert (U.S.A.) for location of public utilities.
- Private utilities are to be located and marked by others. Damage done to unmarked private utilities is not the responsibility of Ahlborn Fence & Steel, Inc.
- Exact line, location and elevation of the fence is to be determined by owner prior to starting work.
- All protection of potential runoff into waterways and drain systems is the responsibility of the General Contractor/Controlling Contractor.
- After execution of contract, deleted scope items may not be credited at full price due to Ahlborn Fence & Steel, Inc. administration and set up procedures.
- All excavated posthole dirt will be spread on site unless otherwise stated in this proposal.
- All painting and staining of fences are excluded unless stated otherwise in this proposal.
- Matching of colored concrete is excluded.
- Traffic control is excluded.
- This entire proposal must be included as part of the subcontract.

Note: This proposal is good for 30 (thirty) days from proposal date.

Ahlborn Fence & Steel, Inc. is a proud member of the American Fence Association, the California Fence Contractors Association, the National Ornamental & Miscellaneous Metals Association, and the North Coast Builders Exchange. We would like to thank you for taking the time to review our proposal. Should you have any questions or if I can be of further assistance, please do not hesitate to call.

Respectfully submitted,

Jeremy Crockett
AHLBORN FENCE & STEEL INC.

CUSTOMER SIGNATURE OF ACCEPTANCE

DATE