

McGILLIVRAY CONSTRUCTION, INC.

GENERAL CONTRACTOR

February 20, 2013

David Weniger
Santa Barbara Unified School District
720 Santa Barbara Street
Santa Barbara, Ca 93101

SENT VIA FAX & US MAIL
(805) 963-2893

Re: Bid Protest of Restroom Replacement & Site Improvements for Peabody Charter School.
SBUSD #06-12/13

Dear Mr. Weniger,

I am writing to bring to your attention irregularities in the bid proposal submitted by Western Group Inc for the above referenced project. Western is the apparent low bidder as indicated on the bid tabulation sheet published yesterday by the District. Based upon review of Western's proposal, Western Group cannot meet the requirements of the bid documents and project specifications.

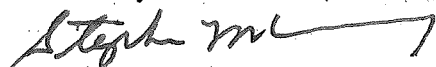
Public Contracts Code §4106 states that if a prime contractor fails to specify a subcontractor when so required, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself and will in fact perform that portion of the work. We believe that the Western Group does not possess the appropriate license to perform major parts of the work where no subcontractor was listed on the Western Proposal, and as such have been given an unfair bidding advantage. It appears Western currently possesses an A General Engineering, B General Building, and C10 electrical license. Western did not list subcontractors for the following trades and does not possess the pertinent license of each trade nor are they know to self-perform this work: Plaster C35, Ceramic Tile C54, Plumbing C-36, Sheet Metal C43, Asphalt C-12 and Painting C33, Fencing C13, Framing C5, Skylights. These trades all easily exceed the ½ of 1% listing requirement for subcontractors and as such these trades should have been listed and are now available to price shop upon award of the project.

We would object to awarding the project to Western based on Westerns bid being non-responsive in that not listing its subcontractors it acts to circumvent the subcontractor listing laws which affords them an unfair competitive advantage.

Based on the aforementioned we believe McGillivray is the lowest responsive bidder and therefore should be awarded the project and are fully prepared to execute your project in a timely manner.

Sincerely,

McGillivray Construction, Inc.



Stephen McGillivray
President/CEO



Santa Barbara Unified School District

720 Santa Barbara Street, Santa Barbara, CA 93101

Phone 805-963-4338, TDD 805-966-7734, Fax 805-963-2893

www.sbsdk12.org

February 20, 2013

Western Group, Inc.
21777 Ventura Blvd., Suite 224
Woodland Hills, CA 91364
Ph: (818) 884-5105/Fax: (818) 884-4620

Re: Bid Protest of Restroom Building & Site Improvements (Part A) and Paving
Improvements (Part B) for Peabody Charter School

Dear Mr. Meir Levi:

The Santa Barbara Unified School District received the attached bid protest regarding the above-mentioned project.

Please respond within one (1) business day with any information you feel would be helpful in the Districts' review of this protest.

Thank you,

David Weniger
Project Manager

cc: Nathan C. Rogers – Griffith & Thornburg
David Hetyonk – SBUSD Director of Facilities and Operations



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720 Santa Barbara Street, Santa Barbara, CA 93101 Phone 805-963-4338, TDD 805-966-7734, Fax 805-963-2893
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February 20, 2013

McGillivray Construction, Inc.
P.O. Box 956
Ventura, CA 93002
Ph: (805) 648-1517/Fax: (805) 648-5875

Re: Bid Protest of Restroom Building & Site Improvements (Part A) and Paving
Improvements (Part B) for Peabody Charter School

Dear Mr. Stephen McGillivray:

The Santa Barbara Unified School District has received and is in the process of reviewing your bid protest dated February 20, 2013 against Western Group, Inc. for the above-mentioned project.

You will be notified once a determination has been made as to the merit and validity of the protest.

Thank you,

David Weniger
Project Manager

cc: Nathan C. Rogers – Griffith & Thornburg
David Hetynk – SBUSD Director of Facilities and Operations

WESTERN GROUP, INC.

General Contractor Lic.# 802113

February 20th, 2013

David Weniger

Santa Barbara Unified School District

720 Santa Barbara Street

Santa Barbara, Ca 93101

Re: Response to Bid Protest submitted by McGillivray Construction Inc. for Peabody Charter School –SBUSD #06-12/13

Mr. Weniger,

In response to bid protest submitted to you by McGillivray Construction Inc. for the above mentioned project. Western Group Inc finds the protest to have no merit and should be rejected for the following reasons.

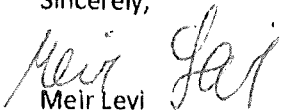
Under Public Contract Code 4106, it is clearly stated that if the prime Contractor fails to list a subcontractor, that the Prime contractor agrees to be fully qualified to perform the work himself or herself. Public Code 4106 does not require the prime to posses the listed licenses as mentioned in the protest letter. It only requires that we agree to be fully qualified. Western Group Inc. is fully qualified and capable of executing the scope of work in question, and as per the CSLB B- General Building License 7057 (b) the contractor may take a Prime Contract or subcontract for the work mentioned in the bid protest under the B-General Building License.

Also please note that under our A License we are fully capable of executing the Asphalt, and as listed by our subcontractors the sheet metal flashing will be performed by Craig Roofing, and the Skylights will be performed by Cabd Construction, these subcontractors were listed in our Bid package.

In closing, I would like to mention the following; Western Group Inc. takes great pride on executing quality work and has a proven track record of performing multiple scopes of work under a prime contract.

Western Group Inc. looks forward to executing the Restroom Replacement & Site Improvement for the Peabody Charter School SBUSD #06-12/13 project and will perform the project beyond your expectations and in a timely manner.

Sincerely,


Meir Levi

President

21777 Ventura Blvd. Suite# 224 Woodland Hills, Ca 91364 Office (818) 884 – 5105 Fax (818) 884 - 4620



Santa Barbara Unified School District

720 Santa Barbara Street, Santa Barbara, CA 93101 Phone 805-963-4338, TDD 805-966-7734, Fax 805-963-2893
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March 4, 2013

Western Group, Inc.
21777 Ventura Blvd., Suite 224
Woodland Hills, CA 91364
Ph: (818) 884-5105/Fax: (818) 884-4620

Re: Restroom Building & Site Improvements (Part A) and Paving Improvements (Part B)
for Peabody Charter School

Dear Mr. Meir Levi:

The Santa Barbara Unified School District reviewed all information submitted regarding the bid protest for the above-mentioned project.

On March 12, 2013, the Santa Barbara Unified School District Planning Department will recommend to the Board of Education to deny the bid protest by McGillivray Construction, Inc. and award a contract to Western Group, Inc. for the subject project.

Thank you,

David Weniger
Project Manager

cc: David Hetynk, Director of Facilities & Operations



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March 4, 2013

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P.O. Box 956
Ventura, CA 93002
Ph: (805) 648-1517/Fax: (805) 648-5875

Re: Restroom Building & Site Improvements (Part A) and Paving Improvements (Part B)
for Peabody Charter School

Dear Mr. Stephen McGillivray:

The Santa Barbara Unified School District reviewed all information submitted regarding the bid protest for the above-mentioned project.

On March 12, 2013, the Santa Barbara Unified School District Planning Department will recommend to the Board of Education to decline the bid protest and award a contract to Western Group, Inc. for the subject project.

Thank you,

David Hetynk
Director of Facilities & Operations

cc: David Weniger, Project Manager