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BAHA
BAY AREA HEADQUARTERS AUTHORITY

Memorandum

TO: BAHA

DATE: July 18, 2012

FR: Deputy Executive Director

W.I. 9130

RE: BAHA Resolution No. 9, Prequalification of Subcontractors for the Purpose of Being Eligible to Submit Bids to Perform Construction Work at 390 Main Street in San Francisco

Staff seeks BAHA approval of Resolution No. 9, adopting a system for prequalification of subcontractors for the 390 Main Street Project.

Public Contract Code Section 20101 allows many public agencies to require licensed contractors or subcontractors that wish to bid for public works jobs to "prequalify" for the right to bid on a specific public works project. For the 390 Main Street Project, BAHA's contractor, McCarthy Building Companies, Inc. (McCarthy) will select most subcontractors through a low-bid process (design-build work, such as mechanical, may be selected via best value, and other work may require sole source selection). Prequalification is used to ensure that bids that are received are from responsible bidders, and gives the subcontractors the benefit of knowing they are responsible before completing a bid.

The law requires every public agency that creates a prequalification procedure to:

(1) use a "standardized questionnaire and financial statement in a form specified by the public entity" (Section 20101(a));
(2) adopt and apply a uniform system of rating bidders on objective criteria, on the basis of the completed questionnaires and financial statements (Section 20101(b)); and
(3) create an appeal procedure, by which a contractor that is denied prequalification may seek a reversal of that determination (Section 20101(d)).

McCarthy is responsible for prequalifying subcontractors as part of its contract with BAHA for preconstruction services. McCarthy has developed a standardized questionnaire for use on the 390 Main Street Project. The questionnaire includes pass/fail questions that would lead to immediate disqualification if failed. Other questions are scored and a bidder would be required to achieve a minimum score to prequalify. The criteria used in the evaluation include financial and bonding capacity, experience on similar projects, safety, and references.

Section 20101(d) requires every public agency that requires prospective bidders to prequalify pursuant to this law to establish "a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids." The appeal process must include written notification by the public agency of the basis for the prospective bidder's disqualification "and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity." (Section 20101(d)(1)). The prospective bidder must be given an opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified. (Section 20101(d)(2)). McCarthy and BAHA staff have developed a procedure to meet these statutory requirements.

Recommendation:
Staff recommends that the Authority approve Resolution No. 9 setting out a system for the pre-qualification of subcontractors for the 390 Main Street Project.

Andrew B. Fremier

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Date: July 25, 2012
W.I.: 9130

ABSTRACT

BAHA Resolution No. 9

This resolution adopts a system to prequalify subcontractors for the purpose of being eligible to submit bids to perform construction work at 390 Main Street in San Francisco, pursuant to Public Contract Code Section 20101.

Discussion of this action is contained in the Executive Director's Memorandum, dated July 18, 2012.

Date: July 25, 2012
W.I.: 9130

Re: Prequalification of subcontractors for the purpose of being eligible to submit bids to perform construction work at 390 Main Street in San Francisco, pursuant to Public Contract Code Section 20101

BAY AREA HEADQUARTERS AUTHORITY
RESOLUTION NO. 9

WHEREAS, the Metropolitan Transportation Commission ("MTC") and the Bay Area Toll Authority ("BATA") have executed a joint exercise of powers agreement dated September 28, 2011 (the "Agreement"), which creates and establishes the Bay Area Headquarters Authority ("BAHA"); and

WHEREAS, BAHA is the owner of certain real property located at 390 Main Street in the City and County of San Francisco, State of California; and

WHEREAS, the building at 390 Main Street requires renovation and seismic retrofit work (the "390 Main Street Project"); and

WHEREAS, BAHA has selected McCarthy Building Companies, Inc. ("McCarthy") as the Construction Manager at Risk for the 390 Main Street Project; and

WHEREAS, California Public Contract Code Section 20101 ("Section 20101") authorizes prequalification of subcontractors for the purpose of being eligible to submit bids to perform work on public projects; and

WHEREAS, BAHA wants to prequalify subcontractors for the purpose of being eligible to submit bids to perform work on the 390 Main Street Project pursuant to Section 20101; and

WHEREAS, McCarthy has developed a system to prequalify subcontractors pursuant to Section 20101 (the "Prequalification System"); and

WHEREAS, the Prequalification System requires subcontractors that want to submit bids to perform work on the 390 Main Street Project to complete a questionnaire, a copy of which is attached hereto as Attachment A; and

WHEREAS, the Prequalification System requires McCarthy to evaluate questionnaires submitted by subcontractors on the 390 Main Street Project based on an objective scoring system and complete a prequalification worksheet which is attached hereto as Attachment B to determine whether such subcontractors are eligible to bid on construction work the 390 Main Street Project; and

WHEREAS, subcontractors that participate in the Prequalification System and are determined to not be eligible to bid on construction work the 390 Main Street Project shall have the right to appeal such determination pursuant to the procedure described in Attachment C hereto; therefore, be it

RESOLVED, that BAHA adopts a system for prequalifying subcontractors in general conformance with the Prequalification System as described in Attachments A, B and C; and be it further

RESOLVED, that this Resolution shall take effect from and after its adoption.

BAY AREA HEADQUARTERS AUTHORITY

_____

Adrienne J. Tissier, Chair

The above resolution was entered into by the
Bay Area Headquarters Authority at a regular
meeting of BAHA held in Oakland,
California, on July 25, 2012.

INSERT

Attachment A

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RESOLUTIONS\BAHA Resolutions\
BAHA-RES-0009_ATT A.pdf**

Date: July 25, 2012
W.I.: 9130

Attachment A
BAHA Resolution No. 9

Prequalification System Questionnaire for Subcontractors That Want to Submit Bids to Perform Work on the 390 Main Street Project

Attachment A

McCARTHY

Business Overview

Company: CAS Financial & Construction Services Inc
580 Grand Ave Ste 102 Oakland CA
Oakland, CA 94610 USA
Phone: Fax: Website:

Submitted On:

No information provided

Company Information

Any change in ownership? No Explanation:

Organized As: None

State in which incorporated / registered:

No specialties selected

No jobs selected for bid

"Other" Job:

Other Information

Fiscal Year End:

Dollar Range Interested in Bidding: Low $0 High $0

Labor Type: None

No States Selected

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McCARTHY

Business Classification

Company: CAS Financial & Construction Services Inc

Submitted On:

Some owners and/or Government agencies require McCarthy to track information on subcontracting accomplishments with various categories of business concerns. Completing the information below informs McCarthy of your firm?s status and will allow McCarthy to track such information if a subcontract relationship is established with your firm.

Large Business Classifications:

If your firm does not qualify as an SBA certified or self-certified small business, please check the "Large Business" box (and applicable additional boxes). Then click on the "Save and Continue" button at the bottom of the page to continue. Otherwise, check the "Small Business" box to provide additional information. Your firm should qualify as either a large business or small business, but not both.

☐ *Large (Other than Small) Business*

- ☐ Minority Owned
- ☐ Woman Owned

Small Business Classifications:

Please check the box(es) below to indicate the SBA certified or self-certified small business classifications for which your firm qualifies.

☐ *Small Business*

- ☐ 8(a) Business Development Program

  Please provide the date your firm was certified in the 8(a) program:

  My firm is in the 'development' phase ☐ 'transitional' phase ☐

  Do you currently have an SBA approved Mentor-Protege Agreement in place? Yes ☐ No ☐
- ☐ HUBZone Small Business

  Please provide the date of certification or last renewal:
- ☐ Small Business Concern
- ☐ Small Disadvantaged Business
- ☐ Woman Owned Small Business
- ☐ Veteran Owned Small Business
- ☐ Service-Disabled Veteran Owned Small Business

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McCARTHY

Business Classification

- [ ] Native American Owned
  - [ ] Tribally Owned
  - [ ] Alaskan Native Corp (ANC) Owned
  - [ ] Native Hawaiian Org (NHO) Owned
  - [ ] Other Native American Owned:
- [ ] Minority Owned
  - [ ] African American
  - [ ] Hispanic American
  - [ ] Asian Pacific American
  - [ ] Other Minority Owned:
- [ ] Other Small Business:
- [ ] Please indicate if your firm currently has approved Mentor-Protege agreements in place as defined by a Government entity.
  - [ ] Federal Aviation Administration
  - [ ] Department of Homeland Security
  - [ ] Department of Energy
  - [ ] Department of Defense
  - [ ] National Aeronautics and Space Administration
  - [ ] Environmental Protection Agency
  - [ ] Department of State
  - [ ] Department of the Treasury
  - [ ] General Services Administration
  - [ ] Department of Veterans Affairs
  - [ ] Other Mentor-Protege agreement:

McCARTHY

Bonding

Company: CAS Financial & Construction Services Inc

Submitted On:

Can your company provide a performance and payment bond? No

Bonding Agent

Company Name

Contact

Phone Number

Bonding Company

Company Name

Contact

Phone Number

Bonding Limits and Capacity

Single Project Bond Limit	$0
Subcontractor Aggregate Bond Limit	$0
Current Available Bonding Capacity	$0

Other Bonding Information

Years with Current Surety 0

Has your firm or any affiliated firm ever had your work completed or supported by a surety in the last 5 years? No

Explanation

McCARTHY

Business References

Company: CAS Financial & Construction Services Inc

Submitted On:

General Contractor References				
Company Name	**Contact**	**Phone Number**	**Fax Number**	**Email**

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McCARTHY

Project References

Company: CAS Financial & Construction Services Inc

Submitted On:

Project Name	Location	Contract Amt	Owner	Start Date	Bonded	% Complete	Contractor

Backlog of Uncompleted Work (in dollar amounts)	
Current Interim	$0
Most Recent Yr End	$0
Prior Yr End	$0

Annual Revenue Volume over the last three years		
Year	$ Volume	% Bonded

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McCARTHY

Other Information

Company: CAS Financial & Construction Services Inc

Submitted On:

Is your firm operating under any other name?	No
Company Name	
Address1	
Address2	
City	
State Zip	
Comments	
Are you part of a Consolidated Group?	No
Company Name	
Address1	
Address2	
City	
State Zip	
Explanation	
Has any contractors' license held by your company ever been suspended, denied or revoked?	No
Explanation	
Has your company ever been disbarred or precluded from public works?	No
Explanation	
Has your firm or any affiliated firm or any of its owners, officers, or principals ever petitioned for bankruptcy?	No
Explanation	
Has your firm or any other organization with which your owners, officers or principals were involved during the past 5 years, ever failed to complete any work awarded or been terminated for cause?	No
Explanation	
Are there any judgements, claims, arbitration proceedings, or suits pending / outstanding against your firm or its owners, officers or principals?	No
Explanation	
Has your firm filed any lawsuits or requested arbitration or mediation with regard to construction contracts within the last three years?	No
Explanation	

McCARTHY

Safety and Health

Company: CAS Financial & Construction Services Inc

Submitted On:

Safety Contact

Contact Name

Phone Number

Experience Mod (last 3 years)

Year	Mod

OSHA Recordable Incident Rates (last 3 years)

Year	Rate

Citations / Injuries

Have you incurred any work-related fatalities within the past three years? No

If yes, list the most recent fatalities:

Has your company received an OSHA citation within the past three years for items other than those listed above? No

Number of Citations

Name of project

Type of Citation

Severity of Sanction

Has your company received any environmental citations or notice of violation within the last three years? No

Issuing Agency

Citation Description

Current Status

McCARTHY

Financials

Company: CAS Financial & Construction Services Inc

Submitted On:

Name of Bank	Bank Officer	Phone Number

Line of Credit	$0
Unused Line of Credit	$0
Expiration Date	1/1/0001

Total Current Assets	$0
Cost and estimated earnings in excess of billings on contracts in progress (Unbilled Work)	$0
Total Current Liabilities	$0
Total Liabilities	$0
Total Equity	$0
Gross Profit	$0
Net Income	$0

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Date: July 25, 2012
W.I.: 1542

Attachment B
BAHA Resolution No. 9

INSERT

Attachment B

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Date: July 25, 2012
W.I.: 9130
Attachment B
BAHA Resolution No. 9

Subcontractor Pre-qualification Criteria

Notes for minimum prequalification requirements:

- 75 points are required
- Firm may have no more than three individual scores reflecting zero points
- Where the Possible Points are determined by pass/fail, subcontractor may not have any "Fails'

Pre-qualification Score Sheet

Question	Response	Possible Points	Points Earned	Comments
Business Overview				
1 Years with stable management/ownership?		5		2 years or fewer = 0 points; 3 years = 2 points; 4 years = 3 points; 5 years = 4 points; 6 years or more = 5 points
2 Key personnel qualified for the project?		3		Yes = 3 points; No = 0 points
3 Firm's years in business?		5		2 years or fewer = 0 points; 3 years = 2 points; 4 years = 3 points; 5 years = 4 points; 6 years or more = 5 points
Bonding Information				
4 Surety Rating on US Treasury Listing?		Pass/Fail		Yes = Pass; No = Fail
5 Letter from surety confirming bonding capacity?		7		Yes = 7 points; No = 0 points
Business References from work completed within the last 5 years (min 3 each)				
6 Firm received favorable references from general contractors?		5		2 or fewer = Fail; 3 references = 3 points; 4 references = 4 points; 5 or more references = 5 points
7 Firm received favorable references from other companies?		5		2 or fewer = Fail; 3 references = 3 points; 4 references = 4 points; 5 or more references = 5 points
Firm's Project References (must have reached substantial completion within past 5 years at time of prequalification submittal				
8 Projects are of the same type and value?		5		2 or fewer = 0 points; 3 projects = 3 points; 4 projects = 4 points; 5 projects = 5 points
9 Projects are within California?		5		2 or fewer = 0 points; 3 projects = 3 points; 4 projects = 4 points; 5 projects = 5 points
10 Firm's work experience compatible with current project (e.g. Institution / government / education / public works)?		5		2 or fewer = 0 points; 3 projects = 3 points; 4 projects = 4 points; 5 projects = 5 points
Other				
11 In the last five years, has your firm, or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?		Pass/Fail		Yes = Fail; No = Pass
12 Has firm been disbarred or precluded from public works?		Pass/Fail		Yes = Fail; No = Pass
13 Has firm ever filed for bankruptcy?		3		No = 3 points; Yes = 0 points
14 Contractor's license ever been suspended, denied, or revoked?		3		No = 3 points; Yes = 0 points
15 Firm ever failed to complete any awarded contract or terminated for cause in the last 5 years?		Pass/Fail		Yes = Fail; No = Pass
16 Any current judgments, claims, arbitration proceedings, or suits against your firm?		3		No = 3 points; Yes = 0 points
17 Has your firm filed any lawsuits or requested arbitration or mediation with regard to construction contracts within the last 3 years?		3		No = 3 points; Yes = 0 points
Firm's Safety, Health and Environmental Information				
18 Experienced any work-related fatalities in the last 5 years?		5		No = 5 points; Yes = 0 points
19 OSHA citation within past 3 years?		5		5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances. 0 points for "Yes" if more than 2 such instances.
20 Environmental citation within past 3 years?		5		5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances. 0 points for "Yes" if more than 2 such instances.
21 Experience Modifier(s)?		5		5 points for three-year average EMR of .95 or less. 3 points for three-year average of EMR of more than .95 but no more than 1.00. 0 points for any other EMR
22 OSHA Incidence Rate(s)?		5		5 points for three-year average OSHA Incidence Rate of 3 or less. 3 points for three-year average of OSHA Incidence Rate of more than 3 but no more than 6.00. 0 points for any other OSHA Incidence Rate.
Financial Information				
23 Submitted reviewed or audited financial statement w/ notes?		Pass/Fail		Yes = Pass; No = Fail**
24 Reference from Bank Officer satisfactory?		7		Yes = 7 points No = 0 points
25 Line of credit exhausted or expired?		7		No = 7 points Yes = 0 points
Comments and Recommendations				
26				
Total		**96**		

**A "No" answer for Item 23 will not be disqualifying if the firm is exempt from complying for the following reason: Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a Small Business Administration entity pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government Code, when the bid is no more than 25 percent of the qualifying amount provided in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

Date: July 25, 2012
W.I.: 9130

Attachment C
BAHA Resolution No. 9

BAHA Prequalification Appeals Process

July 25, 2012

A firm that is denied prequalification to bid on a work package for BAHA's 390 Main Street Project and disagrees with McCarthy's determination has three business days to notify McCarthy in writing and provide substantiating documentation to support the reason why the firm disagrees with McCarthy's determination. McCarthy and a BAHA staff review officer (SRO) will review the documentation, and the BAHA SRO will respond to the firm's written notice within five business days, but not later than three business days before the submission of bids for that work package. The BAHA SRO's decision will be the final agency decision.