



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 JAN 10 PM 12: 51

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Supplemental Report:
RFP Oakland Street Lighting Conversion

DATE: December 19, 2012

City Administrator
Approval

Date

1/8/13

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Resolution: (A) approving the replacement of existing HPS cobra head street lights with LED street lights citywide; (B) authorizing the City Administrator to waive the advertising and Request For Proposal ("RFP") selection process requirements and award a project loan contract for financing for an amount of \$16,000,000.00 at an interest rate not to exceed 4.10% for a term of not more than twelve years, to be paid back by energy savings from Lighting and Landscape Assessment District (LLAD) Funds, without return to Council, to the Amland Corporation, one of the project construction contractors, or to a lender selected by the City Administrator after conducting a Request For Proposals, without return to Council; (C) waiving advertising and bidding and authorizing the City Administrator to award contracts to suppliers and contractors through an advertised Request For Proposals ("RFP") selection process for the replacement of existing HPS cobra head street lights with LED street lights citywide, without return to Council; and further authorizing the award of a construction contract to: (1) Amland Corporation for Three Million, Nine Hundred, Ninety Thousand (\$3,990,000.00) for the installation of the LED street lights, for lighting and electrical engineering services and for documentation services for this project, and (2) to Graybar in the amount of Ten Million, Eight Hundred and Fifty Two Thousand, Six Hundred and Fifty Dollars (\$10,852,650.00) for the supply of LED street lights, with the ability to increase either of these contracts up to an amount not to exceed seven and one half (7.5%) percent of the original contract price over the course of the project, without returning to Council; and (D) accept, appropriate and direct rebates from the utility company estimated at Two Million, Nine Hundred and Twenty-Five Thousand (\$2,925,000.00) to be deposited in the LLAD funds.

REASON FOR SUPPLEMENTAL OR REPLACEMENT

At the December 4, 2012 Oakland City Council Meeting, staff requested the adoption of a resolution awarding a contract for street lighting conversion to Amland Corporation be postponed due to concerns voiced by the Contract Compliance Division.

13

SPECIAL MEETING OF
THE OAKLAND CITY COUNCIL

Item: _____
Oakland City Council
January 22, 2013

JAN 22 2013

On December 5, 2012 the Local Business Enterprise certification for Amland Corporation was rescinded by City of Oakland Contract Compliance staff for failure to maintain a substantial physical business presence within city boundaries. Because of this action Amland became ineligible for 50% participation credit under LBE/SLBE requirements adopted by Council.

On December 13, 2012 a new contract analysis shows that Amland has negotiated the percentage of participation for project consultant team partner Aeko Consulting, a certified Oakland SLBE company, from 8% to 50 % in order to meet the compliance requirement.

The revised Contract Analysis is shown in *Attachment A*

OUTCOME

Utilization of LED street light fixtures will reduce energy consumption, meet or exceed technical specifications, and will generate rebates which will be used for debt service and to restore the health of the Lighting and Landscape Assessment District Funds. Replacement of existing HPS street light fixtures with equivalent LED street light fixtures will provide better clarity of vision as requested by Oakland Police Department (OPD) for crime mitigation and community safety.

BACKGROUND/LEGISLATIVE HISTORY

In May 2012, PWA issued an RFP for Oakland Street Lighting Conversion Project, Project No. C456410, for the replacement of the remaining 30,000 cobra head street lights with LED lights citywide, and to use energy savings as payback for the installation over a period not to exceed 12 years. The City plans to deposit rebates into the LLAD Fund 2310.

ANALYSIS

The City received three proposals for the RFP for Oakland Street Lighting Conversion Project from the following Consultants:

1. Amland Corporation \$14,842,650.00
2. Lumenworks, Inc \$15,176,505.30
3. Philips \$21,000,000.00

City of Oakland staff has determined that Amland Corporation is the lowest bidder based upon the RFP materials submitted. Per the RFP Section VI.A, the City has entered into negotiations with Amland to ascertain performance capabilities.

Amland's proposal is responsive to the City's requirements for the participation of local businesses and the employment of Oakland's labor forces. For the design phase Amland proposed a total of 50% project design dollars will go to Oakland L/SLBE Aeko Consulting. For

Item: _____
Oakland City Council
January 22, 2013

the construction phase, Amland's proposed a total 50% project construction dollars also will go to Oakland L/SLBE Aeko Consulting.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This LED street light conversion project meets the requirements for exemption under the California Environmental Quality Act (CEQA).

PUBLIC OUTREACH/INTEREST

This project did not require any additional public outreach other than the required posting on the City's website.

Public interest has taken the form of third party bid protests by the Northern California Electrical Construction Industry (N.C.E.C.I.) and Foundation for Fairness in Contracting (F.F.C.) in regard to competency and veracity of the contractor selected.

N.C.E.C.I. Allegations:

1. "City of Piedmont – Rejected Amland as a Non-Responsible Contractor and awarded the project to the second contractor, the lowest responsible contractor. On the second page you will see a comment from staff stating that Amland could not get insuring from an admitted insurer in CA due to the "risky nature of business" performed."
2. "City of Marina – Rejected Amland Corp. for not being a responsive contractor to the City's bid requirements."
3. "City of Salinas – Disqualified for Non-Responsive bid."
4. "Dept. of Transportation – Amland submitted a bid that did not adhere to the Bid Book. Amland rounded items totals 11 times out of 27 (40.7%) non lump sum items. Their carelessness on the contract resulted in a total to be lower than the original bid amount. (Non-Responsible Bid)"
5. "Dept. of Transportation – Amland signed under the penalty of perjury that they were never non-responsible bidders by any public entity. Simply a lie and should have been prosecuted for the inaccurate statement."
6. "United States District Court Case – Oakland: Amland Corp. - Felony case – Scheme to Defraud (mail fraud, Aiding and Abetting). The case also acknowledges that the company was a landscaping and construction company six years ago; which questions the experience requirement for the City of Oakland lighting project."

Amland Response to Allegations:

Allegation 1:

“Reference is made to the City of Piedmont streetlight bid. Amland’s bid was deemed non-responsive for this bid due to the fact that the insurance broker Amland was dealing with at the time was not astute with governmental/public works contracts.

In reviewing Amland’s bid post bid and cross checking insurance – Amland discovered the error with respect to the insurance coverage as competition was showing City of Piedmont Amland’s error.

It was a costly mistake for Amland as Amland trusted their insurance broker to comply with all public works contracting, as such, Amland fired that insurance broker and has now employed McSherry and Hudson as their current broker who focused on construction projects.

Page 2 “...risky nature of business Amland has performed” – speaks to the fact that work involves working at 30-ft above grade at a streetlight. This comment should not be misconstrued that Amland does not more than general contracting. 100% of Amland Corp’s current business is Class A, C-10 roadway projects.”

City of Piedmont Council Agenda Report shown as **Attachment B.**

Allegation 4:

“Regarding the attached letter from Caltrans – we concur with the letter from Caltrans. Amland bidding staff made several clerical errors when filling out the bid forms for this bid and it appears that Amland bidding staff made mistakes relative to the Bid Book for Caltrans.”

Caltrans letter shown in **Attachment C.**

Allegations 2, 3, 5:

“We feel the issue relating to the perjury claim is inflammatory and misleading. We feel the claim is a misrepresentation of Amland and possibly confusing the terms “responsive” vs. “responsible.” In relation to the first highlighted section “prevented from bidding on, or completing, a federal, state, or local government project because of a violation of law or a safety regulation.” Amland answered “No” to this question as there has been no issues relating to Amland that would prohibit Amland from bidding or completing aforementioned projects.

In response to the Bidder Responsibility Questionnaire for questions no. 1 and 2. – Amland has truthfully answered “NO” to both questions as we feel the claimant is misstating “Non-responsive” with “Non-responsible”.

Public Contracts Code Section 1103 defines “responsible bidder” as follows: “a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public work contract.”

“Responsive bidder” means a person who has submitted a bid that conforms in all material respects to the Invitation for Bid.

The context the claimant alleging Amland is guilty of perjury is completely wrong.”

“True – Amland has been “non-responsive” to bids due to clerical mistakes or material substitutions, etc as mentioned in the other allegations. However, it is False to say Amland is non-responsible when in fact Amland is currently a clear, responsible, contractor as shown in the California State License Board.”

A copy of the “Bid To The Department Of Transportation” is shown in *Attachment D*.

Allegation 6:

Reference is made to the Federal Court case per the attached.

“After a complete federal investigation – it was found that there was no wrongdoing by Kevin Phan (100% owner of Amland Corp) however it was by an individual by the name of Thiem Van Phan (no relation to Kevin). Thiem was an employee (accountant) to Kevin however the wrongdoing was found solely performed by the responsible individual and not the company (Amland Corp). Subsequent to this case, Thiem was terminated and, as such, is no longer an employee of the company. Moreover, this individual is barred by the court to be 100 feet away from any Amland Corps’ premise and is convicted (in some form we don’t know).”

“It should be noted that Kevin Phan, owner of Amland, made all restitutions payments to all victims of the case referenced in the US Fraud case. All employees affected were made “whole”.”

A copy of case filing CR07-0761 is shown in *Attachment E*.

F.F.C. Allegations:

1. “City Of Menlo Park (FFC Case No. 453SJ) – The Foundation for Fair Contracting (FFC) filed a bid protest with the City of Menlo Park against Amland on April 30, 2012 on the Traffic Signal Installation – Santa Cruz/Elder Ave. Inters 77078 project. The City of Menlo Park opted to award to Amland. On October 3, 2012 FFC filed a complaint against Amland for misclassification of workers, underreporting/nonreporting of all workers/hours, travel pay provisions, and apprenticeship violations. The matter is currently under investigation.”

Item: _____
Oakland City Council
January 22, 2013

2. "City of San Leandro (FFC Case NOS. 463BA) – On October 2, 2012 FFC filed a complaint against Amland for misclassification of workers, underreporting/nonreporting of all workers/hours, travel pay provisions, and apprenticeship violations. At this time FFC has received copies of restitution checks from the City of San Leandro. This matter is still under investigation."
3. "California Department of Transportation (CALTRANS) (FFC Case NOS. 224SJ, 264SJ) – FFC filed complaints against Amland on two projects for failure to pay the prevailing wage rate, misclassification of workers, underreporting/nonreporting of all workers/hours, overtime, holiday pay, travel pay provisions, and apprenticeship violations. These projects closed in 2009 and 2008 respectively. The contractor was investigated on both matters and Amland was required to retribute monies due its workers."

Amland Response To Allegations:

"Attached are copies of letters dated November 27, 2012 from our legal counsel to City of Menlo Park and City of San Leandro, respectively addressing the subject FFC claims. We are currently in the process of performing project close out exercises with both customers and issues regarding FFC is closed."

"In reference to FFC's claims involving Caltrans – again, FFC is being inflammatory and somewhat nonsensical and is possibly targeting clerical mistakes that is mitigated during internal and external audits performed regularly during the course of projects."

"In response to FFC's claim involving Caltrans – to add more clarity to this issue and to show magnitude of the clerical mistakes" –

- "Field staff workers work from job to job. Certain field staff may work from County to County. Sometimes, the payroll clerk will make a mistake in mis-classifying the field worker at the job site, county, or classification."
- "Sometimes the payroll clerk may accidentally not pay overtime if the field worker does not input overtime in his/her timesheet."
- "Internal quality control / audit help minimize mistakes – but mistakes are human nature mistakes not based on malice as the claimant alleges."
- "Restitution is always made."

Referenced letters are shown in Attachment F.

After review of the allegations and Amland's responses Contract Compliance, Public Works Agency and The City Attorney's Office continue to recommend award of this contract to Amland.

Item: _____
Oakland City Council
January 22, 2013

COORDINATION

The Public Works Agency prepared this supplemental report in consultation with the Contract Compliance Division and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The Amland Corporation submitted a proposal in response to the RFP for the total cost of \$14,842,650.00. The breakdown of this cost total is as follows:

The Amland Services Portion is \$3,990,000.00.
Graybar Material Portion is \$10,852,650.00.

Debt service payments will be derived from savings in energy payments currently budgeted in the LLAD Funds 2310.30522.53113.IN07. The first two debt service payments of One Million, Six Hundred Fifty Thousand (\$1.65 million) each will be covered by the energy savings and one-time rebates. Loan payment for each of the ten subsequent years will be absorbed by energy savings in project funds 2310.30522.54010.C456410.IN07 annually. The Department of Infrastructure & Operations (DIO) will transfer these funds into the appropriate account for the payment of the principal and interest.

FISCAL/POLICY ALIGNMENT

The current energy cost for City street lighting is approximately \$3.55 million. The conversion of HPS streetlights to LED lights will result in a savings of about \$1.44 million annually, which would be 40% of the total cost of electricity (or 45% of the portion attributable to the cobra head lights). The energy savings will remain in the LLAD Funds to pay the debt service.

SUSTAINABLE OPPORTUNITIES

Economic: It is generally perceived that lighting enhancement projects can revitalize commercial business districts, increase pedestrian traffic and mitigate criminal activity.

Environmental: Lighting enhancements using low energy technology would help reduce the carbon footprint of the City and create a sustainable resource pool for other energy-saving projects.

Social Equity: Lighting devices which provide a uniform and usable output will benefit all community members who patronize locations enhanced in this manner.

For questions regarding this report, please contact David Ferguson, Assistant Director at (510) 615-5856.

Respectfully submitted,



VITALY B. TROYAN, P.E.
Public Works Agency Director

Reviewed by:
David Ferguson, Assistant Director
Department of Infrastructure and Operations

Prepared by:
Dan Clanton
Electrical Services Division

Attachments:

- A: Contract Compliance Analysis dated December 2012
- B: Council Agenda Report – City of Piedmont
- C: Department of Transportation Letter – Careless Completion of Bid
- D: Bid To The Department Of Transportation
- E: California Court Filing CR07-0761
- F: Letters to City of Menlo Park and City of San Leandro

Item: _____
Oakland City Council
January 22, 2013



CITY OF OAKLAND

INTER OFFICE MEMORANDUM

TO: Paul Chan, PWA

FROM: Deborah Barnes, *Deborah Barnes*
Contracts and Compliance.

SUBJECT: Revised Compliance Analysis
Request for Proposal for Oakland Street Lighting Project
Project No. C456410

DATE: December 13, 2012

This is a revised compliance analysis for Amland Corporation (Amland). All other conditions noted in the previous compliance analysis for this project remain the same. On December 6, 2012, Contracts and Compliance received and accepted under this negotiated environment, revised Schedules E and R from Amland Corporation. Below, please find the results of the 50% L/SLBE compliance analysis for Amland for both design and construction phases. As noted below, Amland is in compliance with the City's 50% L/SLBE requirements.

Design Phase

Responsive to EBO and L/SLBE Policies	Proposed Participation					Preference Points			EBO Compliant Y/N
	Company Name Non-Local and Non-LBE Certified Firms	Total LBE/SLBE/VSLBE	LBE	SLBE	*VSLBE	Total Credited participation	L/SLBE Participation Preference Points	Years in Oakland Preference Points	
Amland Corp	50.00%	0.00%	50.00%	0.00%	50.00%	2 points	0 Pts	0 Pts	N

Comments: As noted above, Amland Corp. met the minimum 50% L/SLBE participation requirement.

Construction Phase

Responsive		Proposed Participation						Earned Credits and Discounts			EBO Compliant Y/N
Company Name	Original Bid Amount	Specialty Dollar Amount	Non Specialty Dollar Amount	Total LBE/SLBE	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
A	B	C						D	E	F	
Company Name Non-Local and Non-LBE Certified Firms											
Amland Corp.	\$12,642,650	\$10,852,630	\$1,790,000	50%	0%	50%	NA	50%	NA	NA	N

Comments: As noted above, Amland achieved 50% L/SLBE participation.

Per questions regarding this information, please contact Vivian Inman, Contract Compliance Officer at (510) 238-6261.



CONTRACTS AND COMPLIANCE

Compliance Division

PROJECT COMPLIANCE EVALUATION FOR :

RE: Oakland Street Lighting Conversion Project - Design Phase

CONSULTANT/CONTRACTOR: Amland Corp

Engineer's Estimate:
NA

Contractors' Bid Amount
NA

Over/Under
Engineer's
Estimate
NA

Bid discounted amount:
N/A

Discount/Preference Points:
2

- 1. Did the 60% local/small local requirement apply: YES
- 2. Did the contractor meet the 50% requirement YES
 - a) % of LBE participation 0.00%
 - b) % of SLBE participation 50.00%
 - c) % of VSLBE participation 0.00%

3. Did the contractor receive bid discount/preference points? YES
(if yes, list the points received) 2 points

6. Additional Comments.

[Empty box for additional comments]

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

12/6/2012
Date

Reviewing Officer: [Signature]

Date: 12/6/2012

Approved By: [Signature]

Date: 12/6/2012

LBE/SLBE Participation Amland Corp.

Project Name: Oakland Street Lighting Conversion Project - Design Phase

Project No.: C456410		Engineer's Estimate					Under/Over Engineers Estimate:				
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE	Total LBE/SLBE/VSLBE %	Total Percentages	For Tracking Only		
									Ethnicity	MBE	WBE
PRIME	Amland Corp	Oakland	UB					37.00%	AP	37.00%	
Outreach/Auditing (Partial)	AEKO Consulting	Oakland	CB		50.00%		50.00%	50.00%	AA	50.00%	
Project Management	Tanko Lighting	San Francisco	UB					8.00%	C		8.00%
Technical Oversight	DTN Engineers	Oakland	UB					5.00%	AP	5.00%	
Project Totals				0.00%	50.00%	0.00%	50.00%	100.00%		92.00%	8.00%
Requirements: The 50% requirement can be satisfied by a combination of 25% LBE and 25% SLBE. The SLBE requirement is waived for Oakland certified prime consultants. A VSLBE's participation is double counted toward meeting the requirement.				LBE 25% or 50%	SLBE 25%	*VSLBE	TOTAL LBE/SLBE/VSLBE 50%	TOTAL	Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed		
Legend		LBE = Local Business Enterprise SLBE = Small Local Business Enterprise VSLBE = Very Small Local Business Enterprise Total LBE/SLBE/VSLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise					UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise				

CONTRACTS & COMPLIANCE



Compliance Division

PROJECT EVALUATION FORM

PROJECT NO.: C456410

PROJECT NAME: Oakland Street Light Conversion - Construction Phase

CONTRACTOR: Amland Corp

<u>Engineer's Estimate:</u>	<u>Contractors' Original Bid Amount</u>	<u>Specialty Dollar Amount</u>	<u>Over/Under Engineer's</u>
	\$12,842,650	\$10,852,650.00	

<u>Discounted Bid Amount:</u>	<u>Amount of Bid Discount</u>	<u>Non-Specialty Bid Amt.</u>	<u>Discount Points:</u>
\$12,642,650.00	\$0	\$1,790,000	0%

1. Did the 50% requirements apply? **YES**
2. Did the contractor meet the 50% requirement? **YES**

- a) % of LBE participation **0.00%**
b) % of SLBE participation **50.00%**
c) % of VSLBE participation **0.00%**

3. Did the contractor meet the Trucking requirement? **NA**

- a) Total SLBE/LBE trucking participation **0%**

4. Did the contractor receive bid discounts? **NA**

(If yes, list the percentage received) **0%**

5. Additional Comments.

The Project Manager has determined that General Electric (GE) and Beta street lights are specialty items and therefore have been excluded from the contractor's bid price for purposes of determining compliance with the 50% L/SLBE requirement.

6. Date evaluation completed and returned to Contract Admin/Initiating Dept. **12/6/2012**
Date

Reviewing Officer: *Evelyn Hoag* Date: **12/6/2012**

Approved By: *Shelley Qarensburg* Date: **12/6/2012**

LBE/SLBE PARTICIPATION BIDDER 1

Project Name: **Oakland Street Light Conversion - Construction Phase**

Project No.: C456410		Engineer's Est:					Engineer's Estimate:					For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	*Non-Specialty Bid Amount	TOTAL Original Bid Amount	Ethn.	MBE	WBE
PRIME Electrical Installation Supplier	Amland Corp	Oakland	UB							895,000.00	895,000.00	AP	895,000.00	
	AEXO	Oakland	CB		895,000.00		895,000.00			895,000.00	895,000.00	AA	895,000.00	
	Graybar	Oakland	UB								10,852,550.00			
Project Totals				\$0.00	\$895,000.00		\$895,000.00	\$0.00	\$0.00	\$1,790,000.00	\$12,542,550.00		\$1,790,000.00	0.00
				0.00%	50.000%		50.00%	0%	0%	100%	100%		14.16%	0%
Requirements: <small>The 50% requirement is a combination of 25% LBE and 25% SLBE participation, or 50% SLBE. An SLBE firm can be counted 100% towards achieving 50% requirements.</small>				1 LBE 25%	SLBE 25%		TOTAL LBE/SLBE	50% LBE/SLBE TRUCKING				Ethnicity AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
Legend		LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise			UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise									

For this project, the project specifications require General Electric or Beta street lights, therefore, the item is considered a specialty item and is excluded from the total bid price for the purposes of determining compliance with the 50% L/SLBE requirement.

CITY OF PIEDMONT
COUNCIL AGENDA REPORT

MEETING DATE: April 18, 2011

FROM: Chester Nakahara, Interim Director of Public Works

SUBJECT: ~~Consideration of Rejection of the Low Bidder (Amland Corporation)~~
and Award of the LED Streetlight Replacement Project to Republic
ITS in the Amount of \$52,910 and approve the overall revised project
budget for this project

RECOMMENDATION:

By motion

1. Find that, in accordance with Contract Bid Documents for the LED Streetlight Replacement Project that Amiland Corporation (Amiland) could not meet the insurance requirements and therefore Amiland's bid is hereby rejected;
2. In accordance with the construction documents, because Amiland was unable to meet the project document requirements, authorize staff to pursue perfection of the Bid Bond posted by Amiland;
3. Approve the award of a construction agreement for the LED Streetlight Replacement Project to the next lowest bidder (Republic ITS) in the amount of \$52,910;
3. Approve an overall budget of \$63,206 which includes the construction, a 10% contingency, monies for construction management and collection of Amiland's bid bond;
4. Authorize the Interim Public Works Director to execute any contract change orders in accordance with the Project contract documents so long as the total Project Cost does not exceed the total funding for this Project in the adopted budget.

BACGROUND:

On February 22, 2011, the City Council authorized the award of the LED Streetlight Replacement Project to Amiland Corporation (Amiland) in the amount of \$49,950. Subsequent to this Council action, staff sent a Notice of Award to Amiland. Per the requirements in the Construction documents, Amiland was required to submit to the City complete, executed copies of all required documents within ten (10) working days of receiving the Notice of Award. Such required documents include, but are not limited to, a payment and labor and materials bond along with proof of insurance as required in the Contract documents. With respect to required

insurance, Section 6-1.08 of the Construction Documents requires that insurance for the project be provided by admitted insurers in the State of California.

When Amland submitted the required documents a check was made of all documents to ensure that they met the contract specifications. In checking the insurance provided by Amland, staff found that two of the three insurance companies listed on the certificate of insurance were not admitted insurers in the State of California. In check along with Amland's insurance broker, it was confirmed that the insurer's listed on the insurance certificate were not admitted insurers in California. Furthermore, staff was informed by Amland's insurance broker that Amland would not be able to get insurance from an admitted insurer in California due to the risky nature of business that Amland performed. Accordingly, Amland Corporation is unable to meet the requirements of the project. Per the contract documents, the Bid Bond (Bidder's security) of any successful bidder that fails to provide the required documents as specified in the Construction Documents will be forfeited to the City. The value of Amland's Bidder's Bond was for 10% of the bid (\$4,995.)

Based on this information, staff is recommending that the City Council find that Amland Corporation is unable to meet the contract requirements and therefore reject Amland's bid, pursue the bid bond as posted by Amland and award the project to the next lowest responsible bidder.

Based on the eleven bids originally received for this project, the second lowest responsible bid was received from Republic ITS in the amount of \$52,910. Republic ITS has confirmed that they are still interested in the project. Accordingly, staff is recommending that the Council authorize award of the LED Streetlight Replacement Project to Republic ITS.

FINANCIAL CONSIDERATIONS:

The original approved overall project budget as shown in the February 22, 2011 staff report was as follows:

Construction Contract	\$ 49,950
Estimated Construction Management/Inspection/Testing	\$ 10,000
Construction Contingency (10%)	\$ 4,995
Total Estimated Construction Cost	\$64,945

If Amland's bid is rejected, the bid bond pursued and the project is awarded to Republic ITS, the revised budget is anticipated to be as follows:

Construction Contract	\$ 52,910
Estimated Construction Management/Inspection/Testing	\$ 10,000
Construction Contingency (10%)	\$ 5,291
Proceeds from Amland Bid Bond	\$ 4,995
Total Estimated Construction Cost	\$ 68,206

It should be noted that additional staff time has been spent on dealing with this issue with Amland. Accordingly, the \$1,739 of savings shown in the above budgets may not be fully realized.

As noted in the February 22, 2011 staff report, this project is funded through a grant from the California Energy Commission through a total grant of \$58,369. If, after considering the grant monies and the rebate, expenses go beyond the overall grant amount available, the additional expenses will be paid for out of the Streetlight and Traffic Signal fund.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ENGINEERING SERVICES
 OFFICE ENGINEER, MS 43
 1727 30th STREET
 P. O. BOX 168041
 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6280
 FAX (916) 227-6151
 TTY 711



*Flex your power!
 Be energy efficient!*

December 7, 2010

Facsimile: (408) 298-4344

Kevin Phan, President
 Amland Corp.
 3168 Knights Bridge Road
 San Jose, CA 95132

04-388204
 04-SM-84-9.9
 B.O. 11/16/10

Dear Mr. Phan:

The Department received a bid submitted by Amland Corp. (Amland) for Contract No. 04-3S8204. The bids were opened on November 16, 2010. Amland did not adhere to the directions found in the Bid Book on Page 1 Section 2 which states in part:

"...Bidder submits this bid with a unit price and the item total (the product of the unit price and the quantity) for each item and a total price (the sum of the item totals) in the spaces provided on the attached Bid Item List."

~~Amland rounded item totals 11 times out of 27 (40.7%) non lump sum items.~~

~~Amland's failure to follow the instructions found in the Bid Book required the bid verification staff to recalculate the non-compliant bid - delaying the verified bid results.~~

~~Amland's carelessness on this contract resulted in a verified total to be lower than the original bid amount.~~

For the aforementioned reasons, the Department may find Amland to be a non-responsible bidder if it continues to carelessly complete its bids.

If you have any questions, please contact Lbren Newell, Contract Awards Branch Chief, at (916) 227-6285.

Sincerely,

for JOHN McMILLAN
 Deputy Division Chief
 Office Engineer
 Division of Engineering Services

Attachment

S/C

1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
BID TO THE DEPARTMENT OF TRANSPORTATION
DES-OE-0102.1 (REV. 3/2011)

CONTRACT NO. 04-040824

NAME OF BIDDER ANLAND CORP

BUSINESS P.O. BOX _____

CITY, STATE, ZIP _____

BUSINESS STREET ADDRESS 3168 KNIGHTS BRIDGE RD.
(Include even if P.O. Box used)

CITY, STATE, ZIP SAN JOSE, CA 95132

TELEPHONE NO: AREA CODE (408) 929 - 3949

FAX NO: AREA CODE (408) 295 - 4344

CONTRACTOR LICENSE NO. 572858

1. Bidder agrees, if this bid is accepted, to enter into a contract with the Department, in the form included in the Standard Specifications, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.
 - For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days shown on the Notice to Bidders.
 - For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.
 - For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the non-plant establishment work within the number of working days bid for non-plant establishment work.
2. For a lump sum based bid, Bidder submits this bid with a total price in the total bid space provided on the Bid Item List. For a unit price or cost plus time based bid, Bidder submits this bid with a unit price and the item total (the product of the unit price and the quantity) for each item and a total price (the sum of the item totals) in the spaces provided on the attached Bid Item List. For a unit price with additive item based bid, Bidder submits this bid with a unit price and an item total for each item and a total base bid (the sum of the item totals) and the additive items in the spaces provided on the attached Bid Item List. Additionally, for a cost plus time based bid, Bidder submits this bid with working days bid for non-plant establishment work, total bid for time, and total bid for bid comparison in the spaces provided on the Bid Item List. Bidder agrees:
 - 2.1. If a discrepancy between the unit price and the item total exists, the unit price prevails except:
 - 2.1.1. If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.
 - 2.1.2. If a decimal error is apparent in the product of the unit price and the quantity, the Department will use either the unit price or item total based on the closest by percentage to the unit price or item total in the Department's Final Estimate.
 - 2.2. If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.
 - 2.3. Bids on lump sum items are item totals. If a unit price for a lump sum item is entered and it differs from the item total, the item total prevails.
 - 2.4. Entries are to be expressed in dollars or decimal fractions of a dollar. Symbols such as commas and dollar signs are ignored and have no significance in establishing unit price or item total.
 - 2.5. Unit prices and item totals are interpreted by the number of digits and decimal placement. Do not round item totals or the total bid.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
BID TO THE DEPARTMENT OF TRANSPORTATION
DES-OE-0102.1 (REV. 3/2011)

- 2.6. For a lump sum based bid, the item total is the bid amount the Department uses for bid comparison.
For a unit price based bid, the sum of the item totals is the bid amount the Department uses for bid comparison.
For a cost plus time based bid, the sum of the item totals and the total bid price is the bid amount the Department uses for bid comparison.

2.7. The Department's decision on the bid amount is final.

3. Bidder has and acknowledges the following addenda:

4. Bidder submits this bid with one of the following forms of bidder's security equal to at least 10 percent of the bid:

Cash \$ _____, Cashiers Check, Certified Check, Bidder's Bond

5. Bidder's signature is an affirmation of the included certifications. Bidder is cautioned that making a false certification may result in one or more of the following:

- 5.1. Criminal prosecution
- 5.2. Rejection of the bid
- 5.3. Rescission of the award
- 5.4. Termination of the Contract

BY (Authorized Signature)

Kevin Pina

DATE SIGNED (Do not type)

06/21/11

PRINTED NAME AND TITLE OF PERSON SIGNING:

KEVIN PINA

PRESIDENT

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALIFORNIA COMPANY PREFERENCE
DES/OE-0102.9 (REV. 11/2008)

This form must be completed and signed by all bidders. Failure of a non-California company to fill out and sign this form may be cause for rejection of its bid. Eligibility for a reciprocal preference for a California company is waived if the California company fails to complete and sign this form under penalty of perjury.

The undersigned certifies that it is a "California company" as defined in Pub Cont Code § 6107 and meets one of the following (check appropriate box and enter requested information):

I am a California company which has its principal place of business in California.

or

I am a California company which has its principal place of business in a state in which there is no local contractor preference on construction contracts.

Name of State: _____

or

I am a California company which has its principal place of business in a state in which there is a local contractor preference and my company has paid not less than \$5,000 in sales or use taxes to California for construction related activity for each of the 5 years immediately preceding the submission of the bid.

Name of State: _____

California Sales or Use Tax No.: _____

or

The undersigned certifies that it is not a "California company." (Check box and enter requested information.)

I am not a California company. My principal place of business is in _____

(Enter state or country)

Describe any and all bid preferences provided to your company by the state or country in which your company has its principal place of business. (Attach additional sheets if necessary.)

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 06/21/11

Signature of Bidder

Kenneth...

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-8410 or TDD (916) 654-3580 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

Contract No. 04-040824.

CERTIFICATIONS

UNDOCUMENTED ALIENS EMPLOYMENT

Under Pub Cont Code § 6101, the Bidder certifies compliance with state and federal law respecting the employment of undocumented aliens.

NONCOLLUSION

NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

Under PCC 7106 and 23 USC 112, the bidder declares as follows:

State of California County of SANTA CLARA

KEVIN PHAN being first duly sworn, deposes and says that he or she is PRESIDENT of TAI LAND CORP the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

CHILD SUPPORT COMPLIANCE ACT

Under Pub Cont Code § 7110, the contractor acknowledges that:

1. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
2. The contractor to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department.

VIOLATION OF LAW OR A SAFETY REGULATION

Under Pub Cont Code § 10162, the Bidder must complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes

No. If the answer is yes, explain the circumstances in the following space.

R.P.

NATIONAL LABOR RELATIONS BOARD

Under Pub Cont Code § 10232, the contractor swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board.

ANTITRUST LAW

Under Pub Cont Code § 10285.1, the Bidder declares under penalty of perjury under the laws of the State of California that the Bidder has has not been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Pub Cont Code § 1101, with any public entity, as defined in Pub Cont Code § 1100, including the Regents of the University of California or the Trustees of the California State University. The term "Bidder" includes any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1. If the Bidder has been convicted of an offense within the past 3 years, provide the conviction details including the date and ultimate resolution of each conviction in the space below.

BIDDER RESPONSIBILITY QUESTIONNAIRE

Failure to truthfully answer the following questions will result in a finding that the bid is nonresponsive. The Bidder must complete, under penalty of perjury, the following questionnaire:

1. Within the past 10 years, has the Bidder been found to be a nonresponsive bidder by any public entity, including federal, State, local, or regional entities?
 Yes No
2. Within the past 10 years, have any of the Bidder's officers or employees with a proprietary interest in the Bidder been determined to be a nonresponsive bidder by a public entity, including federal, State, local or regional entities?
 Yes No
3. Is there any officer or employee of the Bidder who now has or has had any proprietary interest in another company that bid or bids on public works projects whose company has been determined to be a nonresponsive bidder by any public entity, including federal, State, local, or regional entities?
 Yes No
4. If the answer to any of the 3 preceding questions is yes, disclose all pertinent details of the determination of nonresponsibility, including:
 - 4.1. Date of each nonresponsibility determination
 - 4.2. Name of each public agency issuing the nonresponsibility determination and a contact person at that agency who would have information about the determination
 - 4.3. Contract number for each nonresponsibility determination

END CERTIFICATIONS

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

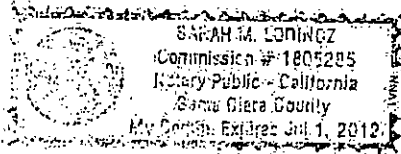
County of Santa Clara

On June 16, 2011 before me, Sarah M. Lorincz, Notary Public

personally appeared Vincent Scolari

Here Insert Name and Title of the Officer

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *[Handwritten Signature]*
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on this document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

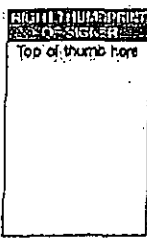
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
BIDDER'S BOND
DES OE-0102.3 (REV. 3/2008)

Contract No. 04-040824

Bond No. N/A

We Amland Corp.

as Principal, and

Merchants Bonding Company (Mutual)

as Surety are bound unto the State of California, Department of Transportation, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the Obligee, for Construction Adjacent to State highway the City and County of San Francisco at the San Francisco-Oakland Bay Bridge
(Copy from the exact description of work, including location, as it appears on the proposal)

for which bids are to be opened at 1727 30th Street, Bidders' Exchange, M5 26, Sacramento, CA 95816

on June 21, 2011
(Insert date where bids will be opened)

(Insert date of bid opening)

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance (if specified in the contract) of the contract and the other to guarantee payment for labor and materials provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event a suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Deled: June 16, 20 11

Correspondence or claims relating to this bond should be sent to the surety at the following address:
2100 Fleur Drive
Des Moines, IA 50321

Amland Corp.

Kenneth
Principal

Merchants Bonding Company (Mutual)

Surety

By

Vincent Scolar
Attorney-in-Fact, Vincent Scolar

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of _____ }

On this _____ before me,

personally appeared _____

Here Insert Name and Title of the Officer

Name(s) of Signer(s)

who proved to me on this basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: See Attached Notary Acknowledgment

Signature of Notary Public

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-9410 or TDD: (916) 654-3880, or write Records and Form Management, 1120 N Street, MS-68, Sacramento, CA 95814.

Contract No. 04-040824

SCOTT N. SCHOOLS (SC 9990)
United States Attorney

E-filing

FILED

DEC -3 PM 4:05

FEDERAL DISTRICT COURT
OAKLAND, CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

THIEM VAN PHAN,
Defendant.

No. CR

CR07-0761

VIOLATIONS: 18 U.S.C. §§ 1341, 2 -
Mail Fraud, Aiding and Abetting

OAKLAND VENUE

INFORMATION

The United States Attorney charges:

I. BACKGROUND

At all times material to this Information,

1. From at least 1992, Amland Corp. (aka Amland and Amland Construction) ("Amland"), a California corporation, was a landscaping and construction company. From approximately January 2006 through the present, Amland was located at 1401 Felipe Avenue, San Jose, California. Prior to this, from approximately 2003 through approximately January 2006, the business office was located at 9926 Gibraltar Road, Oakland, California. In December 2000, Amland entered into contracts with the U.S. Department of Transportation Federal Highway Administration ("DOT FHWA"), and the State of California Department of Transportation ("Caltrans") to perform construction and landscaping work on federally funded highway construction projects in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CW

1 the State of California.

2 2. From at least 2001, THIEM VAN PHAN ("PHAN") was an employee at
3 Amland responsible for the bookkeeping and payroll. In this position, PHAN generated
4 employee paychecks based on weekly time sheets.

5 3. The United States Department of Transportation, through the Federal Highway
6 Administration, funds highway construction projects throughout the United States. In
7 California, such federal funds are administered by Caltrans, which solicits and accept bids
8 from contractors. As a condition of such contracts, prime contractors and subcontractors,
9 such as Amland, agree to comply with federal and/or state requirements that apply to
10 projects paid for by federal funds. Among these requirements is that the contractor pay
11 its employees (1) on a weekly basis and (2) the prevailing federal wage rate. Contractors
12 accepting such public road construction contracts also agree to submit certified payroll
13 reports for review by Caltrans and to certify that the contractor has complied with federal
14 and/or state requirements regarding compensating its employees.

15 4. From approximately December 2000 through September 2004, Amland entered
16 into five contracts with the DOT FHWA and Caltrans, to perform work on federal-aid
17 funded highway construction projects. Amland was the contractor on five contracts.
18 These Amland contracts each involved more than \$2,000, triggering application of 40
19 U.S.C. § 3142 (Rate of wages for laborers and mechanics).

20 COUNT ONE: (18 U.S.C §§ 1341, 2 - Mail Fraud and Aiding and Abetting)

21 SCHEME TO DEFRAUD

22 5. Paragraphs 1 through 4 are incorporated herein by reference.

23 6. Beginning in approximately November 2001 and continuing through October
24 2006, in the Northern District of California, and elsewhere, the defendant,

25 **THIEM VAN PHAN,**

26 did knowingly devise and intend to devise a material scheme and artifice to defraud
27 Amland employees, to obtain money by means of material false and fraudulent pretenses,
28 representations, and promises, and by material omissions as follows.

7. It was part of the scheme and artifice to defraud that defendant would and did

1 submit false certified payroll reports and certified statements of compliance that
2 misrepresented to Caltrans the amount and frequency of payments made by Amland to its
3 employees. These certified payroll reports and certified statements of compliance
4 purported to show that Amland employees working on the Amland contracts were paid
5 once each week and received the federally mandated prevailing wage rate, when in fact
6 these employees were not paid each week and did not receive the prevailing wage rate
7 because defendant PHAN took certain paychecks meant for Amland employees and
e cashed the checks for his own personal enrichment.

s USE OF THE MAIL

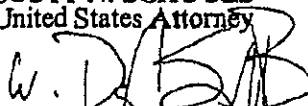
10 8. On or about February 2, 2005, in the Northern District of California and
11 elsewhere, for the purpose of executing the aforementioned scheme and artifice to
12 defraud, and attempting to do so, the defendant,

13 **THIEM VAN PHAN,**

14 did knowingly cause to be placed in a post office and authorized depository for mail
15 matter to be sent and delivered by the Postal Service, a false certified statement of
16 compliance and a false payroll report, from Amland in San Jose, California to 21030
17 Redwood Road, Castro Valley, California, 94544, all in violation of Title 18, United
18 States Code, Sections 1341 and 2.

19 Dated:

20
21 SCOTT N. SCHOOLS
22 United States Attorney

23 
24 W. DOUGLAS SPRAGUE
25 Chief, Oakland

26 (Approved as to form: 
27 AUSA BESSETTE
28

E-filing

AO 257 (Rev. 8/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

Violation: 18 U.S.C. §§ 1341, 2-Mail Fraud, Aiding and Abetting

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY:

Maximum term of imprisonment 20 years, \$250,000 fine, 3 years supervised release, \$100 special assessment

DEFENDANT - U.S.

Thien Van Phan

DISTRICT COURT NUMBER

0707-0761

FILED
DEC - 3 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
 U.S. Department of Transportation, Office of Inspector General

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a re-prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Atty Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

SCOTT N. SCHOOLS

U.S. Atty Other U.S. Agency

Name of Asst. U.S. Atty (if assigned)

MAUREEN BESSETTE, AUSA

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charge
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction
 - 6) Answering trial on other charge } Fed'l State
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

Dawna J. Cilluffo
Attorney at Law

2005 De La Cruz Boulevard, Suite 215
Santa Clara, CA 95050
T. 408.988.7946
F. 408.988.7949

VIA REGULAR AND U.S. CERTIFIED MAIL

November 27, 2012

Carol Augustine
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Re: Foundation for Fair Contracting complaint against Amland Corporation

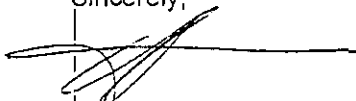
Dear Ms. Augustine:

Our office has reviewed the complaint received from the Foundation for Fair Contracting ("FFC") regarding Amland Corporation's ("Amland") work on the Traffic Signal Installation (FFC, Case No. 453SJ). We find FFC's allegations are without merit and set forth with the intention to instigate problems and promulgate union contracts. Amland has completed the Project in satisfaction of the contract and without violation of the California Labor Code. FFC has neither standing nor authority to file a complaint with the California Labor Commission against Amland or the City of Menlo Park; therefore, no further action is required.

Based on the foregoing, our client requests the immediate release of any and all funds withheld due to FFC's unfounded complaint.

Thank you in advance for your attention to this matter. Please don't hesitate to contact me with any questions you might have.

Sincerely,



Dawna J. Cilluffo

Dawna J. Cilluffo
Attorney at Law

2005 De La Cruz Boulevard, Suite 215
Santa Clara, CA 95050
T. 408.988.7946
F. 408.988.7949

VIA REGULAR AND U.S. CERTIFIED MAIL

November 27, 2012

Nelson Lam
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Re: Foundation for Fair Contracting complaint against Amland Corporation

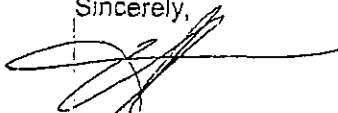
Dear Mr. Lam:

Our office has reviewed the complaint received from the Foundation for Fair Contracting ("FFC") regarding Amland Corporation's ("Amland") work on the Brancroft Avenue and 136th Avenue Traffic Signal (Project No. 11-150-38-330). We find FFC's allegations are without merit and set forth with the intention to instigate problems and promulgate union contracts. Amland has completed the Project in satisfaction of the contract and without violation of the California Labor Code. FFC has neither standing nor authority to file a complaint with the California Labor Commission against Amland or the City of San Leandro; therefore, no further action is required.

Based on the foregoing, our client requests the immediate release of any and all funds withheld due to FFC's unfounded complaint.

Thank you in advance for your attention to this matter. Please don't hesitate to contact me with any questions you might have.

Sincerely,



Dawna J. Cilluffo