



County of Monterey

PUBLIC WORKS, FACILITIES AND PARKS

Randell Ishii, MS, PE, TE, PTOE, Director

1441 Schilling Place, 2nd Floor
Salinas, CA 93901
O: 831 755 4800
F: 831 757 9516

May 16, 2025

Santino R. Orozco
McKim Corporation
8505 Church Street #1
Gilroy, CA 95020

Subject: Summary of Bid Protest, Response, and Findings – Elkhorn Road Rehabilitation Project No. 1155

Introduction:

The following summary outlines the key elements of the bid protest related to the Elkhorn Road Rehabilitation Project No. 1155. It includes: (1) a description of the protest submitted by McKim Corporation; (2) the response from the apparent low bidder, Coastal Paving and Excavating; and (3) the County's findings, conclusion and course of action.

1. Bid Protest Summary:

On May 9, 2025, McKim Corporation submitted a formal protest challenging the bid submitted by Coastal Paving and Excavating. McKim asserted that Coastal's bid was non-responsive due to their failure to list a subcontractor for Bid Item #11 – Pavement Reinforcing Fabric, valued at approximately \$633,769, which exceeds the statutory threshold of \$23,090.40 (0.5% of the total bid). McKim claimed this omission violated the Subletting and Subcontracting Fair Practices Act and argued that this specialty work requires listing an experienced subcontractor.

2. Bidder's Response Summary:

In their response, Coastal Paving and Excavating (Coastal) clarified that they intended to self-perform the Pavement Reinforcing Fabric work and were therefore not required to list a subcontractor under the applicable Public Contract Code provisions. They confirmed that their personnel are qualified to perform this work, and that no subcontractor will be used for that item.

3. Findings/Conclusion:

The County of Monterey reviewed McKim's protest and Coastal's response, and determined that:

- Coastal's bid submittal is responsive, as the omission of a subcontractor listing for Item #11 is acceptable when the bidder intends to self-perform the work.
- Coastal's clarification meets the requirements of the Public Contract Code.

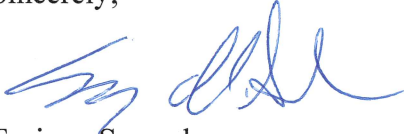


CountyofMonterey.Gov

It is the County's position that Coastal Paving and Excavating's bid meets all requirements. The protest by McKim Corporation does not provide sufficient grounds to disqualify Coastal. County staff will move forward with the recommendation to the Board of Supervisors to award the construction contract for the Elkhorn Road Rehabilitation Project No. 1155, to the lowest responsive and responsible bidder, Coastal Paving and Excavating.

Please let us know if you have any questions or require further clarification.

Sincerely,



Enrique Saavedra
Chief of Public Works
Public Works Parks and Facilities
County of Monterey

Attached: Bid Protest (McKim Corporation)
 Bid Protest Response (Coastal Paving and Excavating)

8505 Church Street
#1
Gilroy, California 95020

408-848-8700
408-848-8778
Info@mckimcorp.com
www.mckimcorp.com



May 9, 2025

Monterey County Department of Public Works
Att: Project Manager
1441 Schilling Place,
Salinas, California, 93901

RE: Bid Protest – ELKHORN ROAD REHABILITATION PROJECT No. 1155

Att: Assigned Project Manager,

Dear Monterey County Department of Public Works:

McKim Corporation hereby submits a bid protest for the proposed contract award for the above-mentioned project.

McKim Corporation is submitting this protest for the apparent low bidder COASTAL PAVING AND EXCAVATING.

The County of Monterey solicited bids for the above-mentioned project for bids due May 9th, 2025, at 2:00 PM. The above-mentioned project includes minor concrete improvements, Major asphalt improvement work, striping, signage, and safe road enhancements. As a part of the bid procedure, the County of Monterey Requested bidders fill out 'DESIGNATION OF SUBCONTRACTORS' which requested bidders to list:

a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement to be performed under this contract or a subcontractor licensed by the State of California, who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent of the prime contractor's total bid or \$10,000, whichever is greater, and (b) the portion of the work which will be done by each subcontractor under this Act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in this bid. In regard to this project, considering that COASTAL PAVING AND EXCAVATING bid was \$4,618,148.95, means that any subcontracting work greater than \$23,090.40 must be listed.

On the Elkhorn Road Rehabilitation project, there is a bid item #11 Pavement Reinforcing Fabric. This scope of work is valued at approximately \$633,769.00 as this was a sub-quote McKim Corporation received from Pacific Northwest Oil, a specialty contractor who performs pavement fabric and tack coat, for this project. Additionally, Pacific Northwest Oil is and must be an authorized distributor of the GlasPave product specified in the project specifications. Although it is not a "specialty" bid item on the bid schedule, there is no doubt that this work requires a skilled specialty contractor to perform. As mentioned above, any work in excess of \$23,090.40, the responsible bidding contractor must list.

CC: COASTAL PAVING AND EXCAVATING
CC: County of Monterey, DPW

May 9, 2025

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McKim Corporation request the County of Monterey, Department of Public works recognize that although McKim Corporations bid is \$51,851.05 higher than COASTAL PAVING AND EXCAVATING, it is still lower than the provided Engineer Estimate. Additionally, McKim Corporation has over 15 years of experience in all aspects of this project and has confidence that it can perform this project for the County of Monterey seamlessly.

In closing, McKim Corporation believes that COASTAL PAVING AND EXCAVATING should be disqualified from consideration of contract award for this project, and the project be awarded to the lowest responsible and responsive bidder, McKim Corporation. McKim Corporation is in compliance with the requested documents at bid time and does comply with all requests. McKim will provide all affected parties with direct financial interest in this protest a copy of this document. (COASTAL PAVING AND EXCAVATING AND MONTEREY COUNTY, DPW).

As per the project specifications, ***"Bidders who wish to lodge a protest as to the award of the bid must do so before 5:00 p.m. of the fifth business day following the notice of intent to award the contract. Failure to timely file a written protest shall constitute a waiver of right to protest. Untimely protests will not be accepted or considered. Bid protests must be submitted, in writing, to: Monterey County Department of Public Works to the attention of the project manager, 1441 Schilling Place, Salinas, California, 93901. Protests may be hand-delivered or sent via facsimile [(831)755-4958], certified postal mail, or E-mail to the attention of the project manager [The Project Manager's E-mail address may be obtained by calling (831) 755-4800]. Bid protests must include the project name and project number, a complete statement describing the basis for the bid protest, including a detailed statement of all legal and factual grounds for the protest, any documentation supporting the protestor's grounds for the protest, and the form of relief requested and the legal basis for such relief. The party lodging the protest must also include their contact information including mailing address, telephone number, and E-mail address."***

McKim Corporation Contact info:

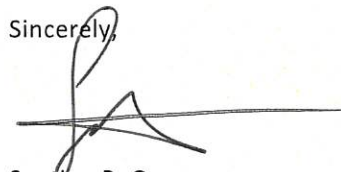
McKim Corporation

8505 Church Street #1, Gilroy, CA 95020

408-848-8700 x1001 (Office line)

Santino@mckimcorp.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Santino R. Orozco', is written over a horizontal line.

Santino R. Orozco

President

Monterey County Department of Public Works

May 9, 2025

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CC: COASTAL PAVING AND EXCAVATING. (estimating@coastalpavingex.com)
County of Monterey, DPW (reyesr2@countyofmonterey.gov)
County of Monterey, DPW (goetzj@countyofmonterey.gov)
Law Offices of David McKim (davidmckimlaw@gmail.com)

Attached to:

- Copy of McKim Corporations bid (Original bid bond was submitted at bid time)
- Copy of Coastal Paving and Excavating Bid (provided by county)
- Copy of Specification section in regards to protest

MEMORANDUM

TO: Monterey County Department of Public Works

FROM: Coastal Paving and Excavating, Inc. (License No. 1021900)

DATE: May, 12, 2025

RE: Supplement to Protest Response – Elkhorn Road Rehabilitation Project No. 1155

Subject: Legal and Factual Support for Rejection of Protest and Confirmation of Coastal Paving's Responsible Bid

I. EXECUTIVE SUMMARY

This memorandum supplements our May 9, 2025, response to the protest filed by McKim Corporation concerning Coastal Paving and Excavating's bid on the Elkhorn Road Rehabilitation Project No. 1155. After reviewing the protest, applicable law, and all project specifications, there is no legal or factual basis for disqualification. Coastal Paving's bid complies with all statutory and contractual requirements, and the County is legally empowered and encouraged to award the contract to the lowest responsible bidder.

II. BACKGROUND

McKim's protest centers on Coastal Paving's failure to list Pacific Northwest Oil as a subcontractor for Bid Item #11 (Pavement Reinforcing Fabric), valued above the 0.5% statutory threshold under Public Contract Code §4104. McKim contends this scope is "specialty" work requiring a listed subcontractor.

III. LEGAL AND FACTUAL ANALYSIS

A. Self-Performance of Work is Lawful and Compliant

Under **Public Contract Code §4104(a)**, subcontractor listing is required *only* for entities performing work exceeding 0.5% of the bid **unless the prime contractor is self-performing**. Coastal Paving declared, in its bid and subsequent response, that it **intends to self-perform** Bid Item #11.

No statutory or contractual language prohibits a Class A contractor from self-performing pavement reinforcing fabric work.

Conclusion: Coastal's omission of a subcontractor reflects proper self-performance intent—not a bid defect.

B. CSLB Licensing Does Not Require a “Specialty” Classification

The California Contractors State License Board (CSLB) allows Class A General Engineering Contractors to perform work across civil engineering disciplines, including asphalt reinforcement and surface preparation. No “C” specialty license is required for pavement fabric installation unless the contract documents state otherwise.

Pacific Northwest Oil, referenced in the protest, holds CSLB License No. 705296 and is likewise a Class A General Engineering contractor. Coastal Paving and Excavating (CPEX), holding CSLB License No. 1021900, maintains the same classification.

Conclusion: McKim's assertion that Pacific Northwest Oil's specialty status mandates subcontractor listing is **unsupported by licensing law**.

C. Project Documents Do Not Designate Fabric Work as “Specialty”

A review of:

- **Special Provisions Book 1,**
 - **2023 Caltrans Standard Specifications,** and
 - **Bid Schedule Items**
- shows no identification of Bid Item #11 as a “Specialty Item” requiring listing or limitation on performance.

Further, the **Standard Specifications** (Section 2-1.01 and 2-1.02) emphasize the contractor's responsibility to perform work in accordance with its means and capabilities—not prescriptive subcontracting.

Conclusion: No contractual provision elevates Item #11 to mandatory subcontractor status.

D. Past Performance Confirms Technical Capacity

Coastal Paving has independently self-performed pavement fabric installations in prior contracts with:

- **The City of Monterey (Phases 4 & 6)**

These contracts included similar scopes, proving Coastal's technical capability. We have also performed similar projects with the **County of Monterey**, all of which were completed successfully and to the satisfaction of the project owners.

Additionally, CPEX has direct prior experience installing pavement reinforcing fabric as part of roadway rehabilitation work and has consistently delivered quality performance without subcontractor assistance.

References available upon request.

Conclusion: Coastal meets the standard of a "responsible bidder" under Public Contract Code §1103.

E. Economic Efficiency Reinforces Good Faith Bid

Coastal's pricing for Bid Item #11 is **\$6.20/sy**, totaling \$584,728.20—approximately **\$50,000 to \$52,000 lower** than McKim's sub-quote of \$6.72/sy. This is a key element of Coastal's ability to offer the lowest total responsible bid.

If the County were to honor the protest and reassign the award, the total cost of the project would increase by approximately **\$52,000**, representing an avoidable and unnecessary burden on public funds.

Conclusion: The cost savings reflect competence and in-house capability—not improper omission.

F. McKim's Protest Fails Procedurally and Substantively

The protest does not identify:

- Any **material breach** of bid instructions,
- Any **noncompliance** with license law, or
- Any **violation** of public contracting rules.

Instead, it is based on conjecture regarding how the work "should" be performed, which is not a valid basis for protest under the **County's bid protest procedures**.

Conclusion: Protest is speculative and does not meet the standard for disqualification.

IV. ADDITIONAL SUPPORTING POINTS

- **Public Interest Consideration:** Disqualifying a compliant low bid based on an unsupported protest would contravene California's policy favoring competition and best value in public works.
 - **County's Discretion:** The County has discretion to evaluate bid responsiveness and has the legal right to accept self-performance by a licensed contractor absent clear contrary requirements.
 - **Protest Timing:** Though the protest was filed timely, it fails to articulate relief grounded in enforceable bid terms.
-

V. CONCLUSION

Coastal Paving's bid is:

- Legally compliant,
- Technically sound, and
- Fiscally advantageous.

We respectfully request that Monterey County:

1. **Reject the protest** by McKim Corporation as unsubstantiated, and
2. **Proceed with award** to Coastal Paving and Excavating as the lowest responsible bidder.

Respectfully submitted,



Michael Melicia

President

Coastal Paving and Excavating, Inc

License No. 995872

831-646-2099

coastalteam@coastalpavingex.com