

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe



*Flex your power!
Be energy efficient!*

January 24, 2014

Facsimile: (925) 961-1925

William S. Stewart, President
RGW Construction, Inc.
550 Greenville Road
Livermore, CA 94550

03-3E1004
03-Pla-080-8.1/37.8
B.O. 11/06/2013

Dear Mr. Stewart:

The Department of Transportation (Caltrans) received the attached letter dated November 25, 2013, from RGW Construction, Inc. (RGW), protesting the bid submitted by Granite Construction Company (Granite). RGW is requesting that Caltrans find the bid submitted by Granite nonresponsive and award the contract to RGW.

Caltrans completed a review of the bid documents and protest and determined that RGW's protest has merit and will proceed to award the contract to the lowest responsive bidder, provided that all requirements are met.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment



RGW CONSTRUCTION, INC.

November 25, 2013

Faxed to: 916/227-6282

Department of Transportation
Division of Engineering Services
Office Engineer, MS43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Attention: John McMillan, Deputy Division Chief

RE: 03-3E1004 -- For Construction on State Highway in Placer County in and near Loomis, Penryn, Newcastle, Weimer, and Magra from 0.1 Mile West of Brace Road Overcrossing to 0.1 Mile East of Magra Overcrossing
Bid Opening 11/06/2013

SUBJECT: BID PROTEST

Dear Mr. McMillan:

Please consider this letter as a protest of the bid submitted by Granite Construction on project 03-3E1004. The bid submitted by Granite is nonresponsive and must be rejected based on the Department's practices and applicable law.

Granite listed: ABSL to perform "Cold Plane AC"; Nitta Erosion Control to perform "Erosion Control"; and, Myers and Sons Construction to perform "Polyester Concrete, Bridge Removals, Raise Bridge, Structural Concrete, Drill and Bond Dowel, Bridge Barrier, Bar Reinforcing Steel (Bridge Related)" on the day of the bid. (See Exhibit 1)

AN EQUAL OPPORTUNITY EMPLOYER



**John McMillan, Deputy Division Chief
Department of Transportation
November 25, 2013 - Page 2**

In its 24 hour subcontractor listing, Granite added work to:

**ABSL when it listed them to perform bid item 81 – Roadway Excavation;
Nitta Erosion Control when it listed them to perform bid item 89 - Pine Needle Mulch; and,
Myers and Sons Construction when it listed them to perform bid items 5 – Traffic Control, 32 –
Temporary Concrete Washout, 56 – Remove Asphalt Concrete Surfacing, 72 – Access Opening
Soffit, 127 – Joint Seal (MR 1") and 163 Chain Link Railing (Type 6). (See Exhibit 2)**

**Cold Plane Asphalt Concrete Pavement is referenced in section 15 – Existing Facilities of the
Special Provisions and the State Standard Specifications, it is not found in section 19 –
Earthwork, specifically, 19-2 – Roadway Excavation. It is shown distinctly as and described in
the layout drawings separate from roadway excavation, see sheet L-1 under Legend. It is
distinctly broken out in the Summary of Quantities sheets, specifically sheets Q1, Q2, Q3, Q4,
Q5, Q9, Q10 and Q12. (Exhibit 3)**

**Pine Needle Mulch is referenced in section 20: Landscape of the Special Provisions and State
Standard Specifications, it is not found in either section 13 – Water Pollution Control or section
21 – Erosion Control both of which constitute temporary and permanent "Erosion Control."
(Exhibit 4)**

**Granite was very specific when it listed the description of subcontracted work as it pertains to
Myers and Sons Construction. Polyester Concrete includes bid items 69, 70 and 71. Bridge
Removals includes bid items 74, 75, 76, 77, 78 and 79. Raise Bridge includes bid items 117, 118,
119, 120, 121 and 122. Structural Concrete includes bid item 124. Drill and Bond Dowel
Included bid item 126. Bridge Barrier includes bid items 164 and 178. Bar Reinforcing Steel
(Bridge Related) included bid item 128. If Granite had wanted Myers and Sons to perform other
work then it should have included additional descriptions of work, specifically Traffic Control –
bid item 5, Temporary Concrete Washout – bid item 32, Remove Asphalt Concrete Surfacing –
bid item 56, Access Opening Soffit – bid item 72, Joint Seal – bid item 127, Chain Link Railing –
bid item 163.**

**This addition of work creates a revised "Subcontractor List" and is in violation of the Subletting
and Subcontracting Fair Practices Act of the Public Contract Code.**

John McMillan, Deputy Division Chief
Department of Transportation
November 25, 2013 - Page 3

Granite failed to identify Striping as a description of subcontract work yet in its DBE submittal, it specifically lists Central Striping Service as its intended subcontractor for bid items 7, 8, 10, 36, 44, 45, 46, 179 – 189 for a contract dollar value of \$164,881. (Exhibit 5) Granite bid \$20,292,292.00 to perform this contract. Central Striping Services' price of \$164,881 is equal to .8% of the total bid price. Granite failed to identify each subcontractor performing work in an amount in excess of ½ of 1 percent of the total bid or \$10,000, whichever is greater (Public Contract Code 4100) in violation of the public contract code.

Granite's addition of work to ABSL, Nitta and Myers and Sons Construction creates a revised "Subcontractor List" and is in violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code. Granite's failure to list Central Striping Service for striping work in excess of ½ of 1% of the total bid price is a violation of the public contract code.

Granite's bid should be rejected as nonresponsive and the project should be awarded to RGW Construction, Inc., the lowest responsive and responsible bidder.

Sincerely,



William S. Stewart, President
RGW Construction, Inc.

/cd
Encls.

**** Transmit Conf. Report ****

P.1
CALTRANS CONTR AWARDS Fax 916-227-6282

Jan 24 2014 03:41pm

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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