



December 5, 2013

**VIA FACSIMILE (916) 227-6282 AND OVERNIGHT MAIL**

Mr. John McMillan  
Department of Transportation  
Deputy Division Chief  
Office Engineer, MS 43  
Division of Engineering Services  
1727 30th Street  
Sacramento, California 95816-8041

RE: Caltrans Contract No. 03-3E1004 (the "Contract")  
Bid Opening: 11/06/2013

Dear Mr. McMillan:

Granite Construction Company ("Granite") timely submitted a fully responsive bid for the above-referenced Contract and is the apparent low bidder. Granite understands that on or about November 25, 2013, RGW Construction, Inc. ("RGW") filed a protest, relating to Granite's Subcontractor List for the Contract. Granite's bid is **\$351,223.00** less than RGW's bid. As further discussed below, RGW's protest lacks merit and should be rejected.

RGW alleges (a) that Granite included Bid Items for three subcontractors on the Subcontractor List submitted by Granite within 24-hours of the bid opening which were not within the description of work on the Subcontractor List submitted by Granite with its bid; and (b) that Granite should have listed a subcontractor for striping work on its Subcontractor List. These allegations are without factual or legal support. For the reasons explained below, Granite's Subcontractor List complies with the governing subcontractor listing laws and the Contract specifications, and Granite's bid is fully responsive.

**Granite's Subcontractor List Satisfies the Subcontractor Listing Law and the Contract Specifications**

The Subletting and Subcontracting Fair Practices Act, California Public Contract Code §§4100 et seq. ("Subcontractor Listing Law") requires bidders for public contracts to list the names and locations of all subcontractors who will perform work in an amount in excess of one-half of one percent of the prime contractor's total bid or \$10,000, whichever is greater. Cal. Pub. Contract Code, § 4104(a). The bidder must also set forth

the portion of the work which will be done by each such subcontractor. Cal. Pub. Contract Code § 4104(b).

The Department's Subcontractor List Form instructs bidders to: "Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening."

The purposes of competitive bidding are to guard against favoritism and corruption, to prevent the waste of public funds, to obtain the best economic result for the public, and to stimulate advantageous market place competition. Competitive bidding provisions must be read in light of the reason for their enactment and applied in a sensible, practical way to accomplish those purposes fairly and reasonably. *Ghilotti Constr. Co. v. City of Richmond* (1996) 45 Cal. App. 4th 897, 909. Likewise, responsiveness considerations "must be evaluated from a practical rather than a hypothetical standpoint, with reference to the factual circumstances of the case. They must also be viewed in light of the public interest, rather than the private interest of a disappointed bidder" hoping to prevail by contriving irregularities in the winning submission. *Ghilotti Constr. Co. v. City of Richmond*, 45 Cal. App. 4th 897, 908-09 (1996) (citing *Judson Pacific-Murphy Corp. v. Durkee* (1956) 144 Cal. App. 2d 377, 383). It would be a "disservice to the public" if a losing bidder were allowed to comb through the bid of the low bidder after the fact, in an effort to cancel the low bid on minor technicalities, with the hope of securing acceptance of its higher bid. "Such construction would be adverse to the best interests of the public and contrary to public policy." *Durkee*, 144 Cal. App. 2d at 383. Here, it is clear that RGW is simply combing through Granite's superior bid in an effort to concoct a deficiency where none exists.

Granite timely submitted its bid and accompanying Subcontractor List for the Contract. Granite's Subcontractor List fully complies with the requirements of the Subcontractor Listing Law and the Contract specifications. There is no irregularity in Granite's bid. Granite did not change subcontractors or the description of subcontracted work on its Subcontractor List. The descriptive terms set forth under column 4 of Granite's Subcontractor List are consistent with each of the specific Bid Item numbers listed in column 2 of the Subcontractor List Granite submitted within 24-hours of the bid opening. Moreover, Granite's Subcontractor List properly lists the subcontractors Granite will be utilizing for this Contract and is consistent with its DBE submittal and governing law.

**The Bid Items Listed in Column 2 for ABSL are Consistent with the Description of Subcontracted Work Listed in Column 4 for ABSL**

Granite listed ABSL ("ABSL") on the Subcontractor List submitted with its bid and listed "Cold Plane AC" as the description of subcontracted work in column 4 of the Subcontractor List. In full compliance with the Subcontractor Listing Law and the Contract specifications, in its 24-hour submittal, Granite properly identified the Bid Items encompassed within this general scope of work. Specifically, ABSL will be performing 45% of Bid Item 65 (Cold Plane Asphalt Concrete Pavement) and 10.5% of Bid Item 81 (Roadway Excavation). With respect to Roadway Excavation, ABSL's only responsibility will be to cold plane the existing AC pavement. Granite's bid-day Subcontractor List and 24-hour submittal with respect to ABSL are completely consistent. This is similar to a recent Caltrans determination.

On Caltrans Contract No. 02-4E5204, Knife River Construction ("Knife River") protested the bid of Flat Top Grading ("Flat Top"), claiming that Flat Top's revised subcontractor listing was inconsistent with its bid day submission. On its bid-day Subcontractor list, Flat Top had listed Darren Taylor Construction for "AC Paving and Cold Plane AC" work. On the Subcontractor List submitted within 24-hours of the bid opening, Flat Top included Bid Items for traffic control, shoulder backing, replace asphalt concrete surfacing and tack coat. In a letter dated April 25, 2013, Caltrans rejected Knife River's protest, stating "Caltrans engineers have determined that the items of work listed are relative to the description of work to be performed by the subcontractor." The contract was awarded to Flat Top. (A copy of Caltrans' determination is attached hereto as Exhibit A and incorporated herein).

Likewise, here, RGW's challenge to Granite's listing of ABSL has no merit and should be rejected. The items of work listed for ABSL fall squarely within the scope of work specified in Granite's bid-day Subcontractor List form. On bid day, ABSL was listed as performing "Cold Plane AC" work. Consistent with the Subcontractor Listing Law and the Contract specifications, in its 24-hour submittal, Granite properly identified the Bid Items encompassed within this scope of work, namely, 45% of Bid Item 65 and 10.5% of Bid Item 81. RGW has no basis for its protest.

**The Bid Items Listed in Column 2 for Nitta Erosion Control are Consistent with the Description of Subcontracted Work Listed in Column 4 for Nitta Erosion Control**

RGW's protest states that Granite, in its 24-hour Subcontractor List, added work to Nitta Erosion Control ("Nitta") when Granite listed Nitta for Bid Item 89 (Pine Needle Mulch). Contrary to RGW's contention, Granite's bid-day Subcontractor List and 24-hour submittal with respect to Nitta are entirely consistent.

On bid day, Granite listed Nitta to perform "Erosion Control." In full compliance with the Subcontractor Listing Law and the Contract specifications, in its 24-hour submittal, Granite properly identified the Bid Items encompassed within the "Erosion Control" general scope of work, namely, Bid Items 21, 22, 89, 100, 101, 102, 103 and 104. RGW asserts that Bid Item 89, Pine Needle Mulch, is not covered by the general description "Erosion Control" because Pine Needle Mulch is referenced in Special Provision Section 20, Landscape. This assertion is a red herring and undermined by the realities of the subject work. "Erosion Control" work clearly includes the Bid Item for Pine Needle Mulch, which is a form of erosion control.

Notably, RGW's present argument directly contradicts the arguments it raised in its defense to a protest on Caltrans Contract No. 04-3A9214. Ghilotti Brothers, Inc. ("Ghilotti") protested RGW's bid, claiming that RGW revised its Subcontractor List Form by adding subcontracted work that was not listed on its bid day form. RGW originally listed Marina Landscape to perform "Erosion Control." In its 24-hour submittal, RGW included bid item 5, Temporary Fence, as part of the work subcontracted to Marina Landscape. In defending against Ghilotti's protest, RGW argued:

"Ghilotti Brothers, had it read all of the plans and specifications, would see that Temporary Fence (Type ESA) fence is shown on sheet EC-1 page

74 of 760 EROSION CONTROL PLAN. If Ghilotti Brothers were to review project plan sheets EC-6 EROSION CONTROL PLAN, they would be able to determine where the Temporary Fence (Type ESA) is to be installed. For Ghilotti Brothers to claim that Temporary Fence (Type ESA) is not erosion control work, when Cal Trans shows the work on the EROSION CONTROL plans is incorrect!"<sup>1</sup>

After reviewing the plan sheets EC-1 and EC-6, Caltrans determined that bid item 5, Temporary Fence (Type ESA) is a component of Erosion Control. (A copy of Caltrans' September 14, 2012 determination letter is attached hereto as Exhibit C and incorporated herein).

Similarly, here, had RGW reviewed the Erosion Control Plans, it would see that Pine Needle Mulch is a component of Erosion Control. The Erosion Control Plan Sheets 52, 61, and 63 (attached hereto as Exhibit D and incorporated herein) reflect that the use of Pine Needle Mulch is for erosion control purposes. Moreover, Nitta bid on a variety of erosion control items, expressly including Bid Item 89, Pine Needle Mulch. Accordingly, Bid Item 89 is, in fact, encompassed within the "Erosion Control" scope of work.

**The Bid Items Listed in Column 2 for Myers and Sons Construction are Consistent with the Description of Subcontracted Work Listed in Column 4 for Myers and Sons Construction**

Granite listed Myers and Sons Construction ("Myers and Sons") on the Subcontractor List submitted with its bid and listed the following general categories of work for the description of subcontracted work in column 4: "Polyester Concrete," "Bridge Removals," "Raise Bridge," "Structural Concrete," "Drill & Bond Dowel," "Bridge Barrier," and "Bar Reinforcing Steel (Bridge Related)." It is common in the industry and generally accepted by Caltrans for bidders to simply list general categories of work in column 4 of the Subcontractor List form. In full compliance with the Subcontractor Listing Law and the Contract specifications, in its 24-hour submittal, Granite properly identified the Bid Items encompassed within this scope of work. RGW takes issue with the listing of Bid Items 5 (Traffic Control) (30.4%), 32 (Temporary Concrete Washout) (100%), 56 (Remove Asphalt Concrete Surfacing) (100%), 72 (Access Opening, Soffit) (100%), 127 (Joint Seal (MR 1")) (100%), and 163 (Chain Link Railing (Type 6)) (100%).

The descriptive phrases "Polyester Concrete," "Bridge Removals," "Raise Bridge," "Structural Concrete," "Drill & Bond Dowel," "Bridge Barrier," and "Bar Reinforcing Steel (Bridge Related)" are consistent with each of the specific Bid Items listed in column 2 of Granite's Subcontractor List.

- Bid Item 5, Traffic Control (30.4%), is an integral part of many of the items of Myers and Sons' work. Traffic control will be a necessary component of performing the Polyester Concrete, Bridge Removals, Raise Bridge, Structural Concrete, Bridge Barrier and Bar Reinforcing Steel work.

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<sup>1</sup> A copy of RGW's September 11, 2012 letter is attached hereto as Exhibit B and incorporated herein.  
Page 4 of 6

- Similarly, Bid Item 32 (Temporary Concrete Washout) is necessary component of the Structural Concrete work. Indeed, the Temporary Concrete Washout is solely a function of the "Structural Concrete" work.
- Likewise, the descriptive phrase "Bridge Removals" is consistent with and encompasses both (a) Bid Items 56 (Remove Asphalt Concrete Surfacing) as asphalt concrete surfacing is being removed from the bridge deck, and (b) Bid Item 72 (Access Opening Soffit) as the primary scope of work for this Bid Item is "removing portions of bridges to provide cell access" (please see Standard Specification 15-4.02A, which is attached hereto as **Exhibit E** and incorporated herein).
- Moreover, Bid Item 127 (Joint Seal) falls within the descriptive phrases "Raise Bridge," "Structural Concrete," and "Polyester Concrete" as this is a Bid Item with a minor subcontracted value that becomes necessary as a result of raising the bridge, increasing the height of the abutment backwall within structural concrete and placing a ¾" polyester concrete overlay. Because the elevation of the bridge is increased, new joint seals are necessary.
- Bid Item 163 (Chain Link Railing (Type 6)) is part and parcel of the "Bridge Barrier" work. This chain link railing is to be installed integrated with the Concrete Barrier Type 26 and is an integral part of the barrier system. As such the "Bridge Barrier" descriptor properly encompasses this Bid Item.

This is similar to the situation presented on Caltrans Contract No. 06-442624. Security Paving Company, Inc. ("Security Paving") protested MCM Construction, Inc.'s ("MCM") Subcontract List form, contending that MCM added additional items of work to Granite on its revised Subcontractor List form. Granite was initially listed for Roadwork, AC Pave and Underground" work. On its 24-hour submittal, MCM listed Granite for bid items for Temporary Fence, Construction Site Management, Temporary Fiber Roll, Temporary Silt Fence, Temporary Construction Entrance, Temporary Drainage Inlet Protection, Street Sweeping, Traffic Control System, Portable Changeable Message Sign, Temporary Railing, Clearing and Grubbing, Rock Slope Protection, Rock Slope Protection Fabric, Erosion Control, K-Rail, etc. Caltrans determined that all those items of work were "associated with Roadwork" and awarded the project to MCM. (A copy of Caltrans' October 10, 2012 determination letter is attached hereto as **Exhibit F** and incorporated herein).

Similarly, here, Granite's bid-day Subcontractor List and 24-hour submittal with respect to Myers and Sons are consistent and Granite's bid is responsive. All of the specified Bid Items are associated with and fall within the scope of work descriptions set forth in Column 4, namely, "Polyester Concrete," "Bridge Removals," "Raise Bridge," "Structural Concrete," "Drill & Bond Dowel," "Bridge Barrier," and "Bar Reinforcing Steel (Bridge Related)."

Interestingly, in response to a protest raised against RGW's bid on Contract No. 04-3A9214, RGW balked at Knife River's protest as a frivolous fishing expedition. (Please see **Exhibit B**). Yet, that is exactly what RGW is engaged in here. Caltrans should not entertain RGW's transparent attempt to concoct irregularities in Granite's superior bid which is fully responsive.

**Granite's Subcontractor List and DBE Commitment Form are Consistent; Central Striping's Work is Less than ½ of 1 Percent of the Total Bid**

RGW also contends that Granite should have listed Central Striping Service as a subcontractor on its Subcontractor List form. However, Granite is only required to list subcontractors who will perform work in an amount in excess of one-half of one percent of the prime contractor's total bid or \$10,000, whichever is greater [Cal. Pub. Contract Code, § 4104(a)] and the value of Central Striping's scope of work will be less than 0.5% of Granite's total bid. The total of Granite's bid is \$20,292,292. One-half of one percent of Granite's total bid equals \$101,461.46. Central Striping's work will not exceed that amount.

Granite intends to self-perform the temporary striping work (Bid Items 5, 7, 8, 9, and 10). Granite owns the necessary equipment and is fully licensed and qualified to perform such work. Indeed, Granite has self-performed temporary striping work on many Caltrans projects (including, but not limited to, Contract No. 03-0F5904 on Interstate 5 in Elk Grove). Central Striping will only be performing the permanent striping and stripe removals work, which is valued at \$98,081.50. (Attached as **Exhibit C**, please find a copy of Central Striping's quote, reflecting the portions of work Granite will be self-performing and the portions of work Central Striping will be performing, which total \$98,081.50). The value of Central Striping's work is below the 0.5% subcontractor listing requirement, and thus, Granite was not required to list Central Striping on its Subcontractor List form.

In sum, Granite's bid is free of any defects that would preclude Caltrans from awarding the Contract to Granite. Granite's Subcontractor List satisfies the requirements of the Subcontractor Listing Law and the Contract specifications, and Granite's bid is fully responsive. Granite listed its subcontractors, and listed in general terms the work to be performed by each listed subcontractor. The individual line items in the completed Subcontractor List only list work incidental and/or related to the general categories of subcontracted work. Accordingly, Granite respectfully requests that Caltrans reject RGW's protest as without merit. Granite is fully prepared to perform this job in its customary dependable and high quality manner, using the properly specified services of the listed subcontractors.

Thank you for your time and consideration. If you have any questions or would like additional information, please contact me at 916-855-4466.

Respectfully Submitted,



Colin Crawford  
Chief Estimator

# EXHIBIT A

STATE OF CALIFORNIA - BUSINESS TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr. Governor

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER, MS 43  
1727 30<sup>th</sup> STREET  
P. O. BOX 168041  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6280  
FAX (916) 227-6282  
TTY 711



*Flex your power!  
Be energy efficient!*

April 25, 2013

Facsimile: (530) 894-6220

Richard Lanier, Estimating Manager  
Knife River Construction  
1764 Skyway  
Chico, CA 95928

02-4E5204  
02-Sha-44-R21.0/R21.4  
B.O. 03/19/2013

Dear Mr. Lanier:

The Department of Transportation (Caltrans) received the attached letter submitted by Knife River Construction (Knife River) on April 4, 2013, protesting the bid submitted by Flat Top Grading, Inc. (Flat Top) for Contract No. 02-4E5204. Knife River alleges that Flat Top revised the subcontractor listing after bid to include traffic control, shoulder backing, replace asphalt concrete surfacing and tack coat.

After careful review of both the protest and response provided by Flat Top, Caltrans engineers have determined that the items of work listed are relative to the description of work to be performed by the subcontractor.

Based on the above action, Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements have been met.

A copy of this letter will be forwarded to the Resident Engineer and Flat Top Grading, Inc.

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

Sincerely,

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

Received

Apr 15 2013 11:52am

04/04/2013 09:16 Baldwin Co. Inc. dba Knife River

Apr 4 2013 09:09am  
(FAX) 530 894 6220

P.001/001



www.kniverinc.com

NORTHERN CALIFORNIA DIVISION - CHICO  
1784 Skyway  
Chico, CA 95928  
(530) 891-8555  
(530) 894-8220 FAX

April 4, 2013

SENT VIA FAX 916-227-6282

John C. McMillan, Deputy Division Chief  
Office of Engineer, Division of Engineering Services  
Department of Transportation  
1727 30<sup>th</sup> St  
Sacramento, CA 95282  
916-227-6280  
916-227-6282 Fax

RE: BID PROTEST  
Caltrans Contract Number 02-4E5204  
Bid Date: March 19, 2013

Mr. McMillan,

In regard to above referenced project please accept this as Knife River Construction's (KRC) formal Bid Protest of both Flat Top Grading, Inc. (Flat Top) and Tullis, Inc. (Tullis).

Flat Top added items of work on their 24 hour sub list which were not on the sub list submitted with their bid. On the day of bid Flat Top listed Darren Taylor Const. for AC Paving and Cold Plains AC only. On the Subcontractor listing after bid Flat Top added several items, No. 3-Traffic Control, No. 18-Shoulder Backing, No. 23-Replace Asphalt Concrete Surfacing and No. 25-Tack Coat.

Tullis submitted their Certified Small Business Listing for the Non-Small Business Preference using Titan DVBE. Titan DVBE was not a Certified Small Business on the day of bid and their application has been rejected.

In summary Flat Top made material changes to the sub listing and Tullis should not get credit for the Non-Small Business Preference. Please take this Bid Protest into consideration. Should you have any questions please call Andy Lanier at 530-891-6555.

Sincerely,

Richard A. Lanier  
Estimating Manager  
Knife River Construction

Received

Apr 15 2013 11:50am

**FLAT TOP GRADING, INC.**General Engineering Construction  
CA No. 942451 - NV No. 50626P.O. Box 161 - Monrovia, CA 96064  
Phone: 530-459-3956 - Fax: 530-459-3976

April 15, 2013

Mr. John McMillan  
Department of Transportation  
Deputy Division Chief  
Office Engineer, MS43  
Division of Engineering Services  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-8041

**VIA FACSIMILE TO: (916) 227-6283**

Reference: Caltrans Contract 02-4E5204  
Bid Opening: March 19, 2013

Dear Mr. McMillan:

Following application of the small business preference, Flat Top Grading, Inc. is the apparent low bidder for the reference project. Knife River Construction, the third low bidder, submitted a bid protest dated April 4, 2013, attached, stating that Flat Top Grading made material changes to the subcontractor listing.

Flat Top Grading disputes the basis of the Knife River protest. Flat Top Grading accepted a subcontractor proposal from Darren Taylor Construction for the asphalt paving items prior to the time of bid and incorporated the proposal into the bid submitted to Caltrans. Flat Top Grading listed Darren Taylor Construction on the initial subcontractor listing at the time of bid and listed the description of subcontracted work in column four of the form as "AC Paving and Cold Plane AC" which is the appropriate description of the scope of work subcontracted.

Knife River's protest claiming a material change to the subcontractor listing is without merit. The important question is simple, did Flat Top Grading modify, in any way, the scope of work to be subcontracted after the time of bid? The answer is no. Flat Top Grading incorporated the entire Darren Taylor Construction proposal into the bid submitted to Caltrans. The proposal included the traffic control required to support the AC Paving work, shoulder banking, and tack coat as components of AC Paving and cold planning.

Flat Top Grading carefully prepared the bid to Caltrans, and in doing so relied on the following documents: Caltrans Standard Specifications 2010 edition, the Project Special Provisions, and the Caltrans document, *Construction Contracting with Caltrans - How to Submit a Responsive Bid, March 2010 edition*. Flat Top Grading did not include a list of the bid items to be subcontracted in Column four of the Subcontractor List because that is not what was asked for.

Flat Top Grading is fully prepared to present the subcontractor proposals relied upon at bid time which clearly show there was no modification of subcontracted work.

Received

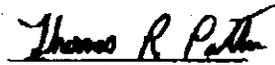
Apr 15 2013 11:51am

John McMillan  
April 15, 2013  
Page 2

Flat Top Grading respectfully requests that Caltrans reject the Knife River protest and award the contract to the apparent low bidder, Flat Top Grading.

Please contact me at the above number if you have any questions or comments.

Sincerely,

  
Thomas R. Patton  
President

enclosure

c: file

Received

Apr 15 2013 11:51am

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-OE-0102.2 (REV 3/2011)

Bidder Name: FLAT TOP GRADING

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.); Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
CONVERSE CONSTRUCTION 20529 SUNSET LANE REDDING, CA 96049	43	100 %	LICATING
DARREN TAYLOR CONST. 5750 PLEASANT VIEW DR ANDERSON, CA 96007	3 15 18 23 24 25	59 % 100 % 100 % 100 % 100 % 100 %	AC PAVING + COLD PLANE AC
APPLY - A - LINE, INC 14652 N. HIRSCH CT ANDERSON, CA 96007	40 41 42	100 % 100 % 100 %	STRIPING + PAVEMENT MARKERS

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## **EXHIBIT B**



**RGW CONSTRUCTION, INC.**

September 11, 2012

Via US Mail and Facsimile (916) 227-6282

Mr. Earl Seaberg  
MSC43  
Office Engineer Contracts Awards Branch Chief  
California Department of Transportation  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-7005

RE: Ghilotti Brothers Frivolous Protest of Bid  
Submitted by RGW Construction and OC Jones, Inc.  
Cal Trans Contract No. 04-3A9214  
Route 880 in Alameda County in San Leandro, From 0.4 Mile South of Marina  
Boulevard Overcrossing to 0.3 Mile North of Route 112/880 Separation

Gentlemen:

RGW Construction, Inc. is the lowest responsive and responsible bidder on California Department of Transportation Contract 04-3A9214. Ghilotti Brothers' protest (undated), faxed on 9/7/12 to Cal Trans is frivolous, without merit and should be rejected by Cal Trans forthright.

Ghilotti Brothers claims that RGW Construction, Inc. added subcontracted work not listed on its bid day form, specifically bid item 5, Temporary Fence (Type ESA) when on bid day it listed Marina Landscape for "Erosion Control" work. Ghilotti Brothers, had it read all of the plans and specifications, would see that Temporary Fence (Type ESA) fence is shown on sheet EC-1 page 74 of 760 EROSION CONTROL PLAN. If Ghilotti Brothers were to review project plan sheets EC-6 EROSION CONTROL PLAN, they would be able to determine where the Temporary Fence (Type ESA) is to be installed. For Ghilotti Brothers to claim that Temporary Fence (Type ESA) is not erosion control work, when Cal Trans shows the work on the EROSION CONTROL plans is incorrect!

**AN EQUAL OPPORTUNITY EMPLOYER**



Mr. Earl Seaberg, California Department of Transportation  
September 11, 2012 - Page 2

Ghilotti Brothers also claims that RGW Construction, Inc. added subcontracted work not listed on its bid day form, specifically bid items 125, 127, 129 and 131, Furnish Piling, when on bid day, it listed Harris Salinas Rebar, Inc. (HSR) for "Rebar". Ghilotti Brothers, had it read all of the plans and specifications, would see that on page 235 of the Special Provisions under Measurement and Payment (Piling), fourth paragraph. "Full compensation for cleaning out the top of steel pipe piling, and furnishing and installing bar reinforcing steel... shall be considered as included in the contract unit price paid for furnish steel pipe piling, and no additional compensation will be allowed therefor." The special provisions clearly include rebar work in these bid items to furnish "Steel Pipe Piling". Furthermore, we would direct Ghilotti Brothers' attention to Section 52: Reinforcement of the State Standard Specifications to further clarify rebar work. Per Section 52-1.01, Description "This work shall consist of furnishing and placing reinforcement of the shape and dimensions shown on the plans, and as specified in these specifications and the special provisions." Section 52-1.11, Payment, paragraphs 9 through 14, are very clear that rebar required for concrete piling, precast members, minor structures, structure approach slabs, concrete barriers and as defined in the Special Provisions, are paid for under separate contract items other than Bar Reinforcing Steel (Bridge). For Ghilotti Brothers to claim that rebar work is not included in Bid Items 125, 127, 129 and 131 – Furnish Piling is just plain wrong!

RGW Construction, Inc. does not object to Ghilotti Brothers, or for that matter, other uni-dimensional contractors when they list one subcontractor for "Bridge and Retaining Walls" and then proceed to list Traffic Control, Bridge Removal, Structure Excavation, Structure Backfill, Furnish and Drive Piling, Prestressing, Structure Concrete Bridge, Structure Concrete Retaining Wall, Structure Concrete Approach Slab, Fractured Fin Texture, Joint Seal, Rebar Bridge, Rebar Wall, Welded Steel Casing Bridge, Slope Paving, Slope Paving Masonry Block, Bridge Deck Drainage, Type 26 Modified Barrier, Types 732-736 Barrier and Mobilization and conversely where Bridge Contractors list a subcontractor for "Roadwork" and proceed to list Roadway Excavation, Base Rock, Asphalt Paving, Cold Plane Asphalt, Finish Roadway and whatever other roadway items may be included in the contract. Rebar work is no different!

Ghilotti Brothers further claims that RGW's bid is exactly the same as the Root Wad Revetment issue on Contract 04-3A2304. Again, Ghilotti Brothers is mistaken. Root Wad Revetment work is not included in the Standard Specifications, is not "Bridge and Retaining Walls" is not

**RGW CONSTRUCTION, INC.**

Mr. Earl Seaberg, California Department of Transportation  
September 11, 2012 - Page 3

"Roadwork", is not "Rebar", is not included in the price of "Clear and Grub". It is not germane!  
This argument and line of thinking is absolutely wrong!

RGW Construction, Inc. has for over 20 years worked for Cal Trans on over \$1 billion of contracts. We have always listed our rebar subcontractor for like items of work and never had this misguided protest thinking arise.

We look to Cal Trans to reject this frivolous bid protest by Ghilotti Brothers and proceed with the award of this contract to RGW Construction, Inc. Should you need any additional information, I can be reached at 925/606-2400.

Sincerely,



William S. Stewart  
President  
RGW Construction, Inc.

cc: Mike Ghilotti, Ghilotti Brothers  
Enclosure: September 7, 2012 Protest – Ghilotti Brothers

## **EXHIBIT C**

STATE OF CALIFORNIA—BUSINESS TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr. Governor

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF ENGINEERING SERVICES**  
 OFFICE ENGINEER, MS 43  
 1727 30<sup>TH</sup> STREET  
 P. O. BOX 168041  
 SACRAMENTO, CA 95816-8041  
 PHONE (916) 227-6280  
 FAX (916) 227-6282  
 TTY (916) 227-8454



*Flex your power!  
 Be energy efficient!*

September 14, 2012

Facsimile: (415) 454-8376

Thomas G. Barr, Vice President  
 Ghilotti Brothers, Inc.  
 525 Jacoby Street  
 San Rafael, CA 94901

04-3A9214  
 04-Ala-880-22.6/24.0  
 B.O. 8/22/12

Dear Mr. Barr:

The Department of Transportation (Caltrans) received the attached letter dated September 7, 2012 from Ghilotti Brothers, Inc. (Ghilotti) protesting RGW Construction, Inc.'s (RGW) and O.C. Jones & Sons, Inc.'s, (OC Jones) Subcontractor List form. The protest states that RGW and OC Jones added bid item 5 Temporary Fence (Type ESA) to Marina Landscape who was performing erosion control on their revised Subcontractor List forms. In addition, Ghilotti alleges that RGW added bid items 125, 127, 129 and 131 Furnish Piling to Harris Salinas Rebar, Inc. who was performing rebar on the revised Subcontractor List form. Ghilotti requests Caltrans find RGW and OC Jones nonresponsive and award the contract to Ghilotti.

After a review of plan sheets EC-1 and EC-6, Caltrans has determined that bid item 5 Temporary Fence (Type ESA) is a component of Erosion Control. A review of Standard Plan B 2-5 and B 2-8 confirms that rebar is a component in bid items 125, 127, 129 and 131 Furnish Pile.

Based on the above, Caltrans finds Ghilotti's protest lacks merit and will award the contract to the lowest responsive bidder.

If you have any questions, please contact David Neumann, Contract Awards Senior, at (916) 227-6285.

Sincerely,

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

09/07/2012 08:31

Received  
4154540376Sep 7 2012 08:44am  
GHILOTTI BROS

PAGE 01/12



General Engineering Contractors - Excavating, Paving, Grading, Concrete  
 525 JACOBY STREET - SAN RAFAEL, CA 94901 - TELEPHONE (415) 454-7011 FAX (415) 454-8376  
 STATE CONTRACTORS LICENSE # 132128

Via U.S. Mail and Facsimile (916) 227-6282

Mr. Earl Seaberg  
 MSC 43  
 Office Engineer Contracts Award Branch Chief  
 California Department of Transportation  
 1727 30<sup>th</sup> Street  
 Sacramento, Ca 95816-7005

Attn: Earl Seaberg, Deputy Division Chief

Re: Route 880, In Alameda County In San Leandro From 0.4 Mile South Of Marina Boulevard  
 Overcrossing To 0.3 Mile North Of Route 112/880 Separation  
 Caltrans Contract No. 04-3A9214  
 Protest of Bids Submitted by RGW Construction and O.C. Jones & Sons, Inc.

Dear Mr. Seaberg:

Please consider this letter to be a formal protest of the bids submitted by RGW Construction, Inc. (RGW) and O.C. Jones & Sons, Inc., (OCJ) in connection with Contract No. 04-3A9214. Their bids are nonresponsive and therefore must be rejected based on the Department's bidding requirements and strictly-enforced policies.

The Subcontractor List form states in part, "... Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid."

In violation of this express requirement of the bid documents, both RGW and OCJ revised their Subcontractor List form by adding subcontracted work that was not listed on their bid day form. Since Marina Landscape was originally subcontracted by RGW to perform "Erosion Control", but bid item 5 Temporary Fence (Type ESA) was added to the revised bid list submitted by RGW on August 23, 2012, the bid submitted by RGW is nonresponsive. Furthermore, since Harris Salinas Rebar, Inc. (HSR) was originally subcontracted by RGW to perform "Rebar", but bid items 125, 127, 129 and 131 Furnish Piling were added to the revised bid list submitted by RGW on August 23, 2012, the bid submitted by RGW is nonresponsive.

The Furnish Piling issue in RGW's bid is exactly the same as the Root Wad Revetment issue that caused Caltrans to determine the bid submitted by Ghilotti Bros / RM Harris JV (Ghilotti-Harris) for Contract No. 04-3A23U4 to be nonresponsive. A bid protest for that contract was submitted by DeSilva Gates Construction (DGC) that contended since Atlas Tree Surgery, Inc. (Atlas) was originally subcontracted by Ghilotti-Harris to perform "Clear and Grub", but Root Wad Revetment was added to the revised bid list submitted by Ghilotti-Harris on August 9, 2012, its bid was nonresponsive. Ghilotti-Harris argued that Atlas was listed for a cost of \$1,500.00 for staging of



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STATE CONTRACTORS LICENSE # 122128

root wad material from log spars with root wad that were obtained from trees removed as part of the their clear and grub work. Ghilotti-Harris argued that the Root Wad Revetment work was not added work and was simply a part of its originally listed clear and grub scope of work. Clearly, the root wads were only "supplied" to the Root Wad Revetment bid item work by Atlas. Caltrans disagreed, citing that Root Wad Revetment was added to the revised bid list, and detetminded the bid submitted by Ghilotti-Harris to be nonresponsive in its August 30, 2012 letter.

HSR is supplying robar for the Furnish Piling bid item work, just the same as root wads were supplied by Atlas for the Root Wad Revetment work. RGW has added Furnish Piling work to its Rebar subcontractor in violation of the Subcontractor List form so its bid is therefore nonresponsive.

Since Marina Landscape was originally subcontracted by OCJ to perform "Hydroseed and Erosion Control - Partial", but bid item 5 Temporary Fence (Type ESA) was added to the revised bid list submitted by OCJ on August 23, 2012, the bid submitted by OCJ is nonresponsive. RGW has also added work to its Rebar to subcontractor.

We respectfully request that the Department uphold our protest and award the contract to our company, which submitted the lowest responsive bid for Contract No. O4-3A9214.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Very truly yours,

*Thomas G. Barr*  
Thomas G. Barr  
Vice President Estimating

Enclosure

09/07/2012 08:31 Received 4154548376

Sep 7 2012 08:44am GHILOTTI BROS

PAGE 03/12

08/22/2012 12:07 FAX Received 825 561 1825

Aug 23 2012 12:12pm RSC CONSTRUCTION

005/008

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-CB-41012 (REV 2/2011)

Bidder Name: BCV Construction, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1% of 1 percent of the total bid or \$10,000, whichever is greater (Pub Code Code § 51100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item No.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Marina Landscape Anaheim, CA <i>Temp Fence (ESA)</i>	5	35%	Erosion Control
	14	75%	
	15	71%	
	18	100%	
	21	100%	
	36	100%	
	97	100%	
	98	100%	
	99	100%	
	100	100%	
R.E. Serrano Martinez, CA	111	100%	Rapid Set Concrete
Independent Structures, Inc Redding, CA	50	75%	Sign Structures
	149	100%	
	150	100%	
	151	100%	
	152	100%	
	155	100%	

ADA Notice: For more information regarding this contract, please contact the contractor or the project manager. For information call (916) 227-6282 or TDD (916) 227-6282 or visit the project website at [www.caltrans.ca.gov](http://www.caltrans.ca.gov).

5

09/07/2012 08:31 Received 4154548376

Sep 7 2012 08:44am GHILOTTI BROS

PAGE 04/12

08/23/2012 12:07 FAX 025 961 1925

Aug 23 2012 12:11pm RBV CONSTRUCTION

002/006

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 (REG-05-01022 (REV. 12/01/11))

bidder Name: SGW Construction, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub. Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: DMI Firm No.	Column 3: Percentage of Total Bid Subcontracted	Column 4: Description of Subcontracted Work
Foundation Constructors, Inc. Oakley, CA	125	98%	Pile Driving
	126	94%	
	127	90%	
	128	100%	
	129	89%	
	130	90%	
	131	96%	
	132	91%	
	267	7%	
Harris Spilhaus Rebar, Inc. Livermore, CA	125	2%	Rebar
	127	1%	
	129	1%	
	131	4%	
	138	37%	
	146	90%	
	147	100%	
	216	17%	
	231	19%	
	232	18%	
233	32%		
234	44%		
Cleveland Wrecking Co. Oakland, CA	76	98%	Demolition & Bridge Removal
	77	98%	
	83	100%	

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 494-4444 or TDD (916) 494-3094 or visit the State of California Department of Transportation, 1155 N Street, Sacramento, CA 95811.

2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 BBS-CV-0022 (REV 3/2011)

Master Bidder: O.C. Jones & Sons, Inc.

The Bidder must identify each subcontractor performing work in an amount of not less than 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Per Civil Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6288 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 will result in the bid being opened on a non-comparative bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted/Recontracted Work	Column 4: Description of Work
Mature Landscapes Anaheim, CA Temp Fence (E&A)	5-14, 15	50%	Hydroseed and Erosion Control - Partial
	18-21	20%	
	30-100	100%	
PBO Hayward Construction Livermore, CA	110, 111	100%	Lean Concrete Base
Independent Structures Rodding, CA	59	75%	Overhead Signs and Related
	149-153	100%	
	159, 163, 160	100%	
Linear Options Durham, CA	28	20%	Striping and Markers and Related
	37, 45-48	100%	
	81	82.5%	
	235-246	100%	
	287	1.25%	
Service Plinkets Campbell, CA	6-10	100%	Underground and Related
	20-41, 44	100%	
	51-54, 81	100%	
	71-74, 80	100%	
	100	1%	
	141, 162-174	100%	
	178-181	100%	
	187-191	100%	
	193-197	100%	
	200	100%	
	267	4%	

For information only. This list is not a contract. The Agency is not responsible for the accuracy of the information provided. For information on the bid process or to make inquiries and request documents, call the Bid Room, 916-227-6288, Sacramento, CA 95834.



**Ghiloti Bros / RM Harris JV**

526 JACOBY STREET - SAN RAFAEL, CA 94901  
TELEPHONE (415) 454-7011 - FAX (415) 454-8378  
STATE CONTRACTORS LICENSE # 061014



August 24, 2012

Via U.S. Mail and Facsimile (916) 227-6282

Mr. Earl Seaberg  
MSC 43  
Office Engineer Contracts Award Branch Chief  
California Department of Transportation  
1727 30<sup>th</sup> Street  
Sacramento, Ca 95816-7005

Attn: Earl Seaberg, Deputy Division Chief

Re: Route 101, Between Airport Blvd Interchange And Windsor River Road Undercrossing In  
Sonoma County, Location 04-Son-101-25.0/29.3  
Caltrans Contract No. 04-3A23U4  
Response to Protest Submitted by DeSilva Gates dated August 23, 2012

Dear Mr. Seaberg:

This letter will serve as our official response to the Bid Protest submitted by DeSilva Gates Construction (DGC) on August 23, 2012 for the above referenced project. DGC attempts to establish four (4) irregularities in our 24 hour Subcontractor List form that they feel lead to a failure to comply with the mandatory requirements for the completion of the Subcontractor List on this contract. We feel the issues raised by DGC are without merit and in no way establish a failure on our part to comply with the contract requirements.

Columns 1 and 4 of the Subcontractor List must be submitted with the bid and columns 2 and 3 must be submitted no later than 24 hours after the bid opening. Failure to complete Columns 1 through 4 of the Subcontractor List form within the time specified clearly will result in a nonresponsive bid. Caltrans has enforced this rule on bids received to ensure that the column 2 and 3 bid items and percentages of bid reasonably match the column 4 descriptions of work submitted with the bid. The purpose of this is to ensure that subcontractors are actually being utilized for the scope of work described in the contractors bid day submittal. We feel that our 24 hour Subcontractor List includes complete and timely information that is consistent with our bid day Subcontractor List information.

The following addresses each of the issues raised in the DGC bid protest:

**L. Atlas**

We listed Atlas Tree Surgery for Clear & Grub work on bid day and included bid items 74 (55%), 92 (66%), 232 (0.04%) and 233 (0.06%) for the column 2 and 3 information in our 24 hour

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GHILOTTI BROS

PAGE 07/12



## Ghilotti Bros / RM Harris JV

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Subcontractor List form. DGC contends that Atlas' scope of work relating to bid item 232, Root Wad Removal, is not related to Clearing and Grubbing. This is not true.

Attached is a copy of Atlas' quote that includes a cost of \$1,500.00 for staging of root wad material. Section 10-1.951, Root Wad Removal, of the Special Provisions allows that log spurs with root wad may be obtained from trees removed as part of the contract. Atlas is removing all of the trees on this contract under their clearing and grubbing scope of work. For a cost of \$1,500.00, Atlas will be managing a sufficient amount of log spurs with root wads generated during their clearing and grubbing operations to be utilized by others in the construction of the root wad removals. Atlas' scope of work for bid item 232, Root Wad Removal, is 100% related to their clearing and grubbing scope of work. We have included a letter from Atlas that further clarifies their scope of work and supports this fact. The 24 hour Subcontractor Listing of our Clearing and Grubbing subcontractor includes complete and timely bid items and description that is consistent with our bid day Subcontractor List. DGC received the same quote from Atlas on bid day and is fully aware of their bid item 232 scope of work.

### 2. Schwager

We listed Schwager Davis for Post Tension work on bid day and included bid item 124 (93%) for the column 2 and 3 information and Prestress for the column 4 information in our 24 hour Subcontractor List form. DGC contends that post tension and prestress are two different types of work. This is also not true.

Prestressing of concrete for the bridge construction work will be performed in accordance with Section 50-1.01 of the Standard Specifications. The Standard Specifications require that prestressing work be performed by either pre-tensioning or post-tensioning methods. We listed Schwager on bid day to perform this scope of work utilizing the post-tensioning method. Post-tensioning is our chosen method of prestressing so they are in fact the same types of work. The description of work listed on our bid day and 24 hour Subcontractor Lists refer to the same scope of work to be performed on this contract under bid item 124. Even Schwager Davis' quote (see attached) includes both post-tensioning and prestressing language. We have also included a note from Schwager Davis that further clarifies that post-tensioning is prestressing concrete. The 24 hour Subcontractor Listing of our Prestressing subcontractor includes complete and timely bid item and description that is consistent with our bid day Subcontractor List.

### 3. ACL and 4. Pacific

We listed ACL for Barrier - Partial and Pacific Coast Drilling for CIDH Pile / Drilling - Partial on our bid day Subcontractor List. The partials are for clarification purposes to help illustrate that these subcontractors will be performing less than 100% of the bid items subcontracted. For ACL, we included bid items 192 (50%), 198 (63%), 199 (85%), 200 (63%) and 201 (50%) for the column 2 and 3 information and Barrier for the column 4 information in our 24 hour Subcontractor List form. For Pacific, we included bid items 121 (9%), 122 (61%) and 123 (62%) for the column 2 and 3 information and CIDH Pile / Drilling for the column 4 information in our 24 hour Subcontractor List



**Ghilotti Bros / RM Harris JV**

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TELEPHONE (415) 454-7911 • FAX (415) 454-8378

STATE CONTRACTORS LICENSE # B41014



form. DGC contends that we altered our 24 hour Subcontractor List form when we dropped the clarification term "Partial" from our Column 4 description. We dropped the term "Partial" because our column 3 information defined the percentage of each bid item subcontracted and the term was no longer relevant. The scope of work remains the same and the 24 hour Subcontractor Listing of our Barrier and CIDH Pile / Drilling subcontractors includes complete and timely bid items and descriptions that are consistent with our bid day Subcontractor List.

Our scopes of work and bid items subcontracted are all consistent between our bid day and 24 hour Subcontractor Lists. It is reasonable to see that no revisions to our subcontractors' scope of work were made in our 24 hour Subcontractor List. Clearly, Caltrans has only previously determined bidders to be nonresponsive when a scope of work is changed and/or added to the 24 hour Subcontractor List. The four (4) issues raised by DGC do not constitute a basis for a protest, as we have fully complied with the Public Contract Code, and any alleged issues do not affect the enforceability of our bid or provide a competitive advantage. Our bid fully complies with the mandatory requirements for the completion of the Subcontractor List on this contract.

We therefore respectfully request that the protest submitted by DGC be overruled and that Caltrans proceed with an award to our Joint Venture, which submitted the lowest responsive bid. Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Very truly yours,

Thomas G. Barr  
Managing Partner

Enclosure

Revised Revised

"A Cut Above"

# ATLAS TREE SURGERY, INC.

8/8/2012

To: Contractors

Project: CAL Trans 04-3A2384  
 Location: HWY 181 Windsor, CA  
 Fax:  
 Phone:  
 Attention:

Scope of Work:

Tree Work: Remove all trees plus grind stumps according to tree removal plans SC48-SC61. Remove bushes, shrubs, and vegetation within grading limits. Haul wood, limb debris, and bush debris off site. Prune trees as needed for equipment clearance. Contractor to mark trees for removal within grading limit boundaries prior to arrival of Atlas tree crews.

Option 1

Building Demo: Complete demolition and hauling of houses and three out buildings at 806 Mark West Station Rd. House drop to be downed and capped. Asbestos statement included. Atlas tree surgery will not remove any abandoned septic tanks or wells.

\$28,887.00

Clearing and grubbing: \$184,021.00

Road Side Clearance: \$26,320.00

→ Staging of root wood material: \$1,500.00

(5ct. 18 ft lengths of Redwood trunks with root mass still attached, 5ct. 8 ft Redwood logs between 12-18 in. diameter)

Exclusions:

Any non tree or bush material other than what is specified above

Permit fees / Dirt Control / Root nicking / Fencing control / Traffic Control / Hauling / Stump Mulch

Bid Total: \$211,717.00

2 moves included in bid other moves to be \$1,000.00

Upon acceptance of this bid these terms shall be included in the contract  
 Payment in full within 30 days of completion NO RETENTION

10-12 SH.  
 STUMP  
 Hauled to offsite  
 \$10,000  
 ADD

Estimated by:

Accepted by:

\_\_\_\_\_

1544 Ludwig Avenue - Santa Rosa, CA 95407 • (707) 523-4399 • Fax (707) 528-4127 • www.atlas-tree.com  
 Certified Arborist #862 • Contractor's License #679146





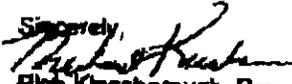
8-24-12

Ghilotti Bros., Inc.  
Thomas G. Barr, P.E.  
Vice-President of Estimating

Regarding: Hwy 101- Windsor  
Job # 04-3A23U4

Dear Tom,

As per our conversation the \$1,500 listed on our bid proposal is to gather the root  
wad material during our clearing operations and stage them on site for others to  
install. If you should have any questions please contact me.

Sincerely,  
  
Rich Kingsborough, Pres.  
ATLAS TREE SURGERY INC.  
Certified Arborist WE00882  
Cell: 707-974-3093  
Office: 707-523-4399



**IB-1.351 ROOT WAD REVEALMENT**

**GENERAL**

This work includes furnishing, placing and anchoring log spurs with root wads and footer logs, and furnishing and placing 1 Ton Rock Slope Protection (RSP) (Method A) as shown on the plans and described in this special provision.

**MATERIALS**

**Log Spur with Root Wad**

A log spur with root wad consists of a redwood tree trunk with an attached root ball. The trunk portion must be straight and without cracks, rot, or other physical defects that could compromise structural integrity. The diameter of the log spur must range from 12 inches to 20 inches measured across the section of the trunk below the bark at the cambium layer. The trunk length, measured from above the root ball to the top of the trunk, must range from 15 to be approximately 20 feet. The root ball must be a minimum of 5 feet in diameter, measured across the bottom face of the root ball within areas where roots are uniformly distributed. Log spurs with root wad may be obtained from trees removed as part of the contract. Root wads must be free from exotic and/or invasive species and pests. The bark layer must be removed from the log spur with root wad. The log spur with root wad must be pressure-washed before installation. An inspection of log spurs with root wads, by the Engineer, is required before placement.

**Footer Logs**

A footer log consists of a section of redwood tree trunk. The footer logs must have a diameter ranging from 12 inches to 20 inches measured across the section of the trunk below the bark at the cambium layer, and must be a minimum of 8 feet in length. Logs must be straight and without cracks, rot, or other physical defects that could compromise structural integrity. Footer logs may be obtained from trees removed as part of the contract. Logs must be free from exotic and/or invasive species and pests. The bark layer must be removed from the footer log. The footer log must be pressure-washed before installation. An inspection of footer logs, by the Engineer, is required before placement.

**Cables**

Cables used to secure log spurs must be 5/8 inch diameter wire rope. Galvanize cables under Federal Specification RR-W-410.

**Epoxy**

Section 95 of the Standard Specifications does not apply to this special provision. Epoxy used to bond the cables into the boulders must be one of the following or Department approved equal:

- A. Ultrabond H5200  
Adhesive Technologies  
450 East Ponce de Leon Road  
Pompano Beach, FL 33064  
(800) 892-1880
- B. HTE30  
HTE, Inc.  
5400 South 122nd East Avenue  
Tulsa, OK 74146  
(800) 879-8000



CONTRACT NO. 04-3A23U4  
ADDED PER ADDENDUM NO. 2 DATED JULY 27, 2012

09/07/2012 08:31

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GHILOTTI BROS

PAGE 12/12

**SECTION 50: PRESTRESSING CONCRETE****50-1.01 DESCRIPTION**

This work shall consist of prestressing precast or cast-in-place concrete by furnishing, placing, and tensioning of prestressing steel in conformance with details shown on the plans, and as specified in these specifications and the special provisions.

This work shall include the furnishing and installation of any appurtenant items necessary for the particular prestressing system to be used, including but not limited to ducts, anchorage assemblies and grout used for pressure grouting ducts.

For cast-in-place prestressed concrete, the term "member" as used in this Section 50 shall be considered to mean the concrete which is to be prestressed.

Prestressing shall be performed by either pretensioning or post-tensioning methods unless the plans show only pretensioning details. If the plans show only pretensioning details, the use of a post-tensioning system will be allowed only if complete details of any necessary modifications are approved by the Engineer.

**50-1.02 DRAWINGS**

The Contractor shall submit to the Offices of Structure Design for approval in conformance with the provisions in Section 5-1.02, "Plans and Working Drawings," working drawings of the prestressing system proposed for use. For initial review, 6 sets of the drawings shall be submitted for railroad bridges and 4 sets shall be submitted for other structures. After review, between 6 and 12 sets, as requested by the Engineer, shall be submitted to Offices of Structure Design for final approval and for use during construction.

The working drawings of the prestressing system shall show complete details and substantiating calculations of the method and materials the Contractor proposes to use in the prestressing operations, including any additions or rearrangement of reinforcing steel and any revision in concrete dimensions from that shown on the plans. The details shall outline the method and sequence of stressing and shall include complete specifications and details of the prestressing steel and anchoring devices, working stresses, anchoring stresses, type of ducts and all other data pertaining to the prestressing operation, including the proposed arrangement of the prestressing steel in the members.

Each working drawing submittal shall consist of plans for a single bridge or portion thereof. For multi-frame bridges, each frame shall require a separate working drawing submittal.

Working drawings shall be 22" x 34" or 11" x 17" in size and each drawing and calculation sheet shall include the jobsite name of the structure as shown on the contract plans, District-County-Route, bridge number and contract number.

Working drawings shall be submitted sufficiently in advance of the start of the affected work to allow time for review by the Engineer and correction by the Contractor of the drawings without delaying the work. The time shall be proportional to the complexity of the work, but in no case shall the time be less than 8 weeks for railroad bridges or 6 weeks for other structures after complete drawings and all support data are submitted.

## **EXHIBIT D**

DATE: 12/05/13	NO. OF SHEETS: 52	SHEET NO.: 437
PROJECT: 03' Plo 80	DATE: 8/1/13	SCALE: 1" = 50'

LANDSCAPE ARCHITECT

6-24-13  
PLUM PERMIT DATE

NO. 1000 - COMPLIANT TO ALL APPLICABLE DISTRICT, COUNTY AND STATE REGULATIONS AND ORDINANCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

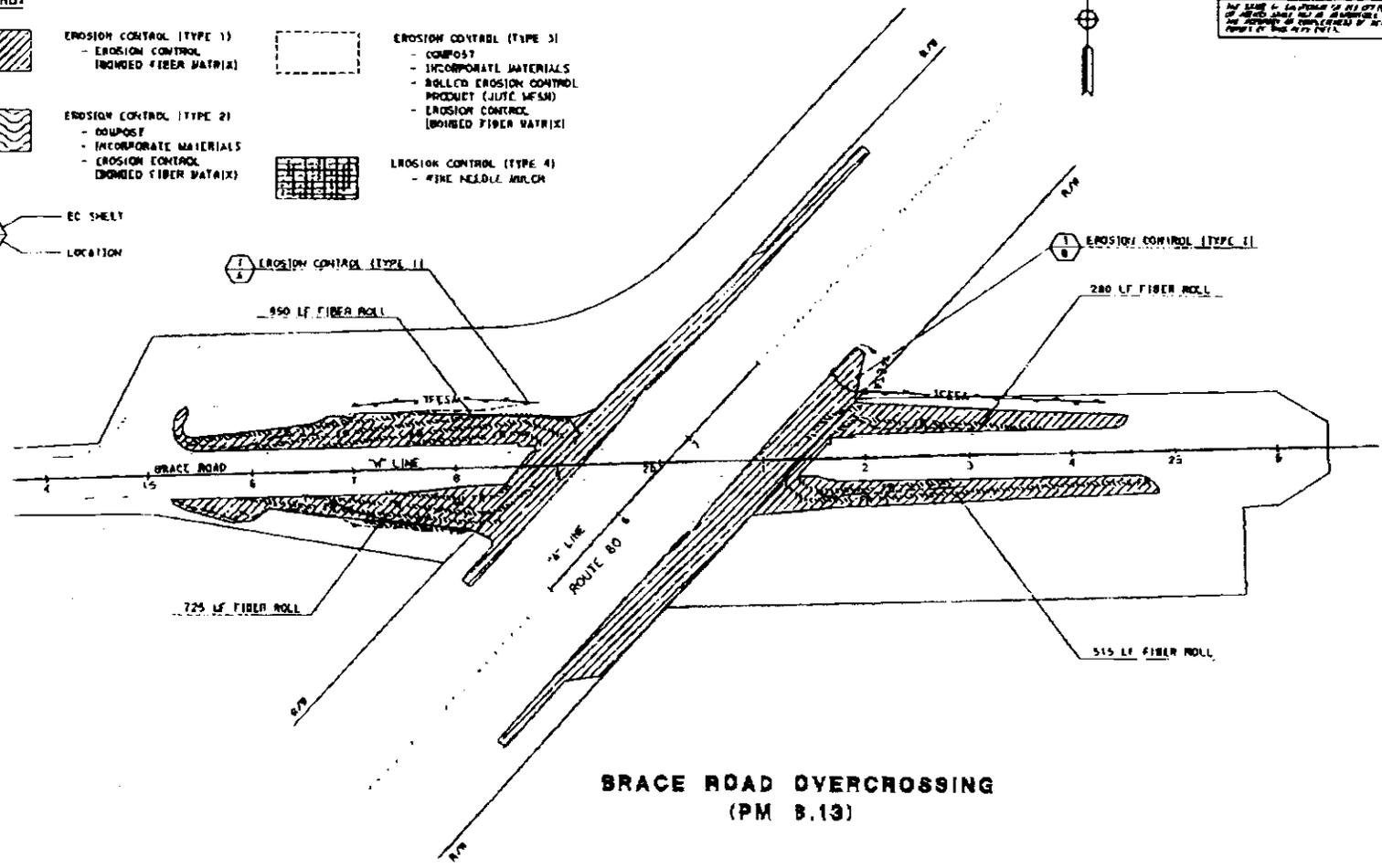


**NOTES:**  
 1. FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEER/AD AT THE DISTRICT OFFICE.  
 2. FOR INFORMATION ON EROSION CONTROL, SEE ECL-1.

**LEGEND:**

	EROSION CONTROL (TYPE 1) - EROSION CONTROL (BONDED FIBER MATRIX)		EROSION CONTROL (TYPE 3) - COMPOST - INCORPORATE MATERIALS - ROLLED EROSION CONTROL PRODUCT (JUSTE MESH) - EROSION CONTROL (BONDED FIBER MATRIX)
	EROSION CONTROL (TYPE 2) - COMPOST - INCORPORATE MATERIALS - EROSION CONTROL (BONDED FIBER MATRIX)		EROSION CONTROL (TYPE 4) - FINE NEEDLE MULCH

EC SHEET  
LOCATION



**BRACE ROAD OVERCROSSING  
(PM 8.13)**

**EROSION CONTROL PLAN**  
 SCALE: 1" = 50'  
**EC-1**

APPROVED FOR EROSION CONTROL WORK ONLY

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
 CALTRANS - LANDSCAPE ARCHITECTURE

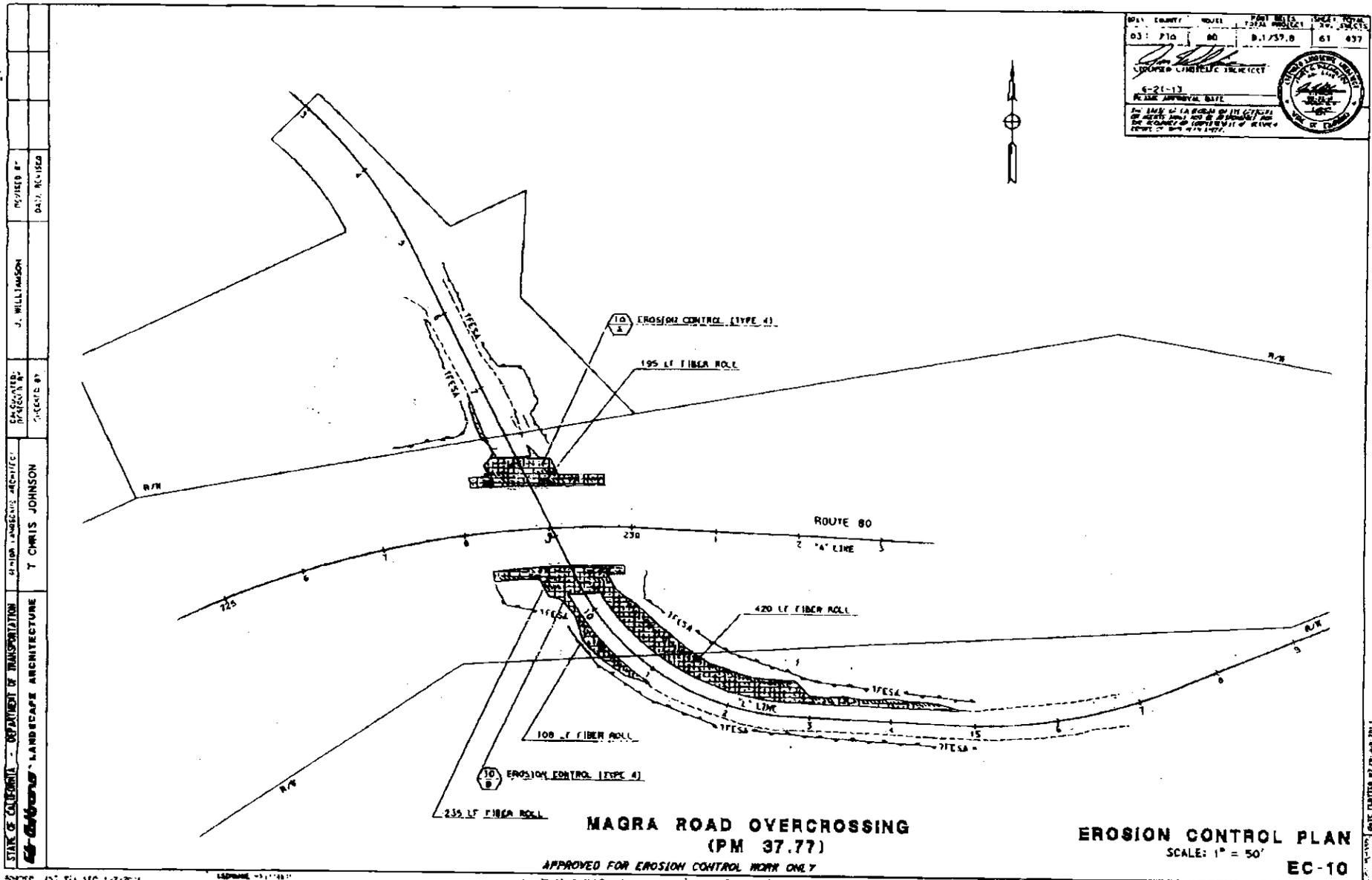
DESIGNED BY: DAISY K. WHITE

J. WILLIAM JOHNSON

CHIEF OF DIVISION

Y. CHRIS JOHNSON

LANDSCAPE ARCHITECT



DATE	COUNTY	ROUTE	POST MILE	SHEET NO.
03	P10	00	0.1737.0	61 637

[Signature]  
 SUPERVISOR  
 4-21-13  
 PERMITS APPROVAL DATE  
 THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS AND BRIDGES  
 GRANITE CONSTRUCTION

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION	DESIGNED BY	REVISIONS
GRANITE CONSTRUCTION	J. WILLIAMSON	DATE: 04/12/12
LANDSCAPE ARCHITECTURE	APPROVED BY	
T. CHRIS JOHNSON		

LADP/MS/11/12/13  
 03/000804131  
 UNIT 0281  
 PROJECT NUMBER & PHASE  
 03000804131

COUNTY: MONTESEMORE COUNTY  
 DISTRICT: 10  
 DATE: 11/27/13  
 SHEET: 431  
 PROJECT: 13-000000-01  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 SCALE: AS SHOWN  
 PROJECT NUMBER & PHASE: 13-000000-01



**EROSION CONTROL MATERIALS**

SHEET	LOCATION CONTROL	DESCRIPTION	EROSION CONTROL (ROND) FIBER MATRIX	COMPOST	INCORPORATE MATERIALS	ROLLED EROSION CONTROL PRODUCT (JUTE MESH)	PINE NEEDLE MULCH
EC-1	A	EC TYPE 1	1200				
EC-1	B	EC TYPE 1	1200				
EC-1	C	EC TYPE 1	1200				
EC-1	D	EC TYPE 1	1200				
EC-1	E	EC TYPE 1	1200				
EC-1	F	EC TYPE 1	1200				
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EC-1	FX	EC TYPE 1	1200				
EC-1	FY	EC TYPE 1	1200				
EC-1	FZ	EC TYPE 1	1200				
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EC-1</							

# EXHIBIT E

**SECTION 15****EXISTING FACILITIES**

2. Perform bridge removal activities only when the roadway is closed to traffic except as specified for preliminary work.
3. During roadway closures, debris from bridge removal operations may fall directly onto the roadway if protection is furnished for highway facilities. Minimum protection for paved areas is a 2-foot thick earthen pad or a 1-inch thick steel plate placed over the impact area. Before reopening the roadway, all debris, protective pads, and devices must be removed and the roadway swept clean with wet power sweepers or equivalent methods.
4. For girder bridges, completely remove each girder within a span before starting removal of the adjacent girder.
5. For slab bridges, perform removal activities within a span along a front parallel with the primary reinforcing steel.
6. Protective covers are not required.

**15-4.01C(3)(b) Preliminary Work**

Preliminary work is limited to activities that (1) will not reduce the structural strength or stability of the bridge or bridge elements to a hazardous level as determined by the Engineer or (2) do not cause debris or any other material to fall onto the roadway.

You may use protective covers to perform preliminary work if covers support all loads and prevent dust and fine material from falling onto the traveled way.

Protective covers must extend 4 feet beyond the limit of the work being performed. Bottom slabs of box girders may be considered as protective covers for preliminary work performed on top slabs inside the limits of the exterior girders.

Use temporary support shoring and bracing during preliminary work if needed to ensure the stability of the bridge.

**15-4.01D Payment**

Not Used

**15-4.02 ACCESS OPENINGS****15-4.02A General**

Section 15-4.02 includes specifications for (1) removing portions of bridges to provide cell access and (2) closing access openings.

**15-4.02B Materials**

Concrete must be rapid-setting concrete complying with section 15-5.02.

Reinforcement must comply with section 52.

Steel plates, hardware, and thread locking compound must comply with section 75-1.03.

**15-4.02C Construction****15-4.02C(1) General**

Limits of removal shown are approximate. The Engineer authorizes removal limits before you start removal activities.

Saw cut concrete to a depth of 1 inch around removal limits before removing concrete.

Remove concrete and reinforcement to the limits shown. Paint exposed ends of the remaining reinforcement with 2 coats of organic zinc-rich coating under section 59-2.03C(2)(a).

Within cells where work activities are performed, remove existing formwork and concrete that interfere with the work. In cells that adjoin hinges, bent caps, or abutments, remove existing forms and sharp projections in the cell between the adjoined element and 5 feet past the access opening.

**15-4.02C(2) Deck Access Opening**

Reserved

# EXHIBIT F

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER, MS 43  
1727 30<sup>th</sup> STREET  
P. O. BOX 168041  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6280  
FAX (916) 227-6282  
TTY 711



*Flex your power!  
Be energy efficient!*

October 10, 2012

Facsimile: (818) 767-3169

Joseph Ferndino, Vice President  
Security Paving Company, Inc.  
P.O. Box 1489  
Sun Valley, CA 91353

06-442624  
06-Fre, Mad-99-26.7/R31.6,  
R0.0/R1.6  
B.O. 9/7/12

Dear Mr. Ferndino:

The Department of Transportation (Caltrans) received the attached letter dated September 17, 2012 from Security Paving Company, Inc. (Security Paving) protesting MCM Construction, Inc.'s (MCM Construction) Subcontractor List form. The protest states that MCM Construction added additional items of work to Granite Construction on its revised Subcontractor List form dated September 7, 2012 that were not included in the description of work "Roadwork, AC Pave and Underground". Security Paving requests Caltrans find MCM Construction nonresponsive and award the contract to Security Paving.

After a review of the protest it has been determined that bid items 2, 3, 5, 6, 7, 9, 11, 18, 21, 22, 46 and 128 are items of work associated with "Roadwork".

Based on the above, Caltrans finds Security Paving's protest lacks merit and will award the contract to the lowest responsive bidder.

If you have any questions, please contact David Neumann, Contract Awards Senior, at (916) 227-6285.

Sincerely,

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

Attachment

# Security Paving Company, Inc.

GENERAL CONTRACTOR  
LICENSE NO. 116307 A C12  
FAX (916) 767-5169

POST OFFICE BOX 1489  
SUNVALLEY, CA 91353-1489  
(818) 767-8418 (323) 875-1080

9/17/12

Via U.S. Mail and Facsimile (916) 227-6282

John McMillan, Deputy Division Chief  
Division of Engineering Services  
Office Engineer, MS 43  
1727 30th Street  
P.O. Box 168041  
Sacramento, CA 95816-8041

RE: Contract No. 06-442624  
Formal Protest of Bid Submitted by MCM Construction, Inc.

Dear Mr. McMillan:

Security Paving Company, Inc. was the second bidder on the above referenced contract. Please consider this letter a formal protest of the bid submitted by MCM Construction, Inc., in connection with Contract No. 06-442624. MCM Construction, Inc. revised its Subcontractor List in violation of Cal Trans' contract rules. Pursuant to the California Department of Transportation's bidding requirements and strictly enforced policies, the bid submitted by MCM Construction, Inc. must be rejected as non-responsive and ineligible for award of this contract.

The Subcontractor List (Form DES-OE-0102.2 (REV 3/2011)) submitted by MCM Construction, Inc. within 24 hours of the bid date and time is materially different from the bid information submitted on the day of the bid. MCM Construction, Inc. revised its Subcontractor List form by adding subcontracted work that was not listed on their bid day Subcontractor List form.

Specifically, on bid day, MCM Construction, Inc. listed Granite Construction, Fresno, CA for "Roadwork, AC Pave, and Underground" work (Attachment 1). MCM Construction, Inc. added the following Bid Items to Granite Construction, Fresno, CA on its revised Subcontractor List (Attachment 2):

- Bid Item 2 – Temporary Fence (Type ESA);
- Bid Item 3 – Construction Site Management;
- Bid Item 5 – Temporary Fiber Roll;
- Bid Item 6 – Temporary Silt Fence;
- Bid Item 7 – Temporary Construction Entrance;
- Bid Item 9 – Temporary Drainage Inlet Protection;
- Bid Item 11 – Street Sweeping;
- Bid Item 18 – Traffic Control System;
- Bid Item 21 – Portable Changeable Message Sign;
- Bid Item 22 – Temporary Railing (Type K);
- Bid Item 46 – Clearing and Grubbing (LS);
- Bid Item 128 – Rock Slope Protection (No. 2, Method B) (CY); and

**Bid Item 129 – Rock Slope Protection Fabric (Class 8).**

The Subcontractor List form states in part, "Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a non-responsive bid." No other revisions to the form are permitted.

In violation of this express requirement of the bid documents, MCM Construction, Inc. revised the Subcontractor List form it submitted with their bid by adding subcontracted work, specifically Bid Items 2, 3, 5, 6, 7, 9, 11, 18, 21, 22, 46, 128, and 129, to Granite Construction, Fresno, CA. The work described in the above listed Bid Items is not "Roadwork, AC Pave, or Underground" work.

Cal Trans recently determined that both OC Jones and Ghilotti Brothers/RM Harris a Joint Venture submitted non-responsive bids on project 04-3A23U4 on August 8, 2012 due to the fact that they made revisions to the Subcontractor List form when revisions were not permitted. Copies of Cal Trans' non responsive determination for both OC Jones and Ghilotti Brothers/ RM Harris a Joint Venture are attached (Attachment 3 & 4).

Based on the above, Security Paving Company, Inc. should be awarded this contract (Contract No. 06-442624) as the lowest responsive and responsible bidder.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Sincerely,



Joe Fernando  
Vice President  
Security Paving Company, Inc.

Enclosure

Attachment 1. Sht. 1/2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-08-0102.2 (REV 3/2011)

Bidder Name: MCH Construction, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cost Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
GRANITE CONSTRUCTION Fresno, CA			ROAD WORK AT THE UNDERGROUND
WABO - HERCULES, CA			LANDSCAPE & IRRIGATION
SAFETY STRIPING GOSHEN, CA			Striping
DRG ACACIA, CA			FENCE AND GRADE PAINT
HIGHWAY Elec. RIVERSIDE CA			ELECTRICAL
MABBIDRA BROTHERS WATSONVILLE			WATER WEIRS
KADDERER FRESNO			BRIDGE REMOVAL

ADA Notice: For individuals with sensory disabilities, this document is available in alternate format. For information call (916) 454-6410 or TDD (916) 454-6880 or visit Records and Forms Management, 1120 N Street, 95833, Sacramento, CA 95814.

MH

Attachment 1 Sht 2/2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DEC-05-0922 (REV 3/2011)

Bidder Name: MCM Construction, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cost Code § 4180 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
MRI STOCKTON CA			CONCRETE BARRIERS
SERANO MARTINEZ CA			PCP PAVING
MARIS SALINAS RIVER & LIVERMORE CA			REBAR
SOI SAN JOSE, CA			PRE STRESSING
BEARD ARVING, CA			SIGN STRUCTURES
CMS SCOTTSDALE AZ			STAINING CONCRETE

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 624-2410 or TDD (916) 624-2490 or the Records and Forms Management, 1120 N Street, MS-09, Sacramento, CA 95814.

MH

09/17/2012 13:24 Received  
18187673169

Sep 17 2012 01:31pm  
SECURITY PAVING CO.

PAGE 06/07

09/07/2012 12:25 Received  
909-875-2249

Sep 7 2012 12:25pm  
MCM BLM

PAGE 01

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
000-000000000000000000

Order No: MCM Construction, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cost Code 5 4100 of sec.) Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6262 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a non-responsive bid.

Column 1: Bidder Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Granite Const. Kerman, CA	2, 4-7, 9, 11, 21, 22, 25, 35, 36, 37, 42, 43, 46, 47, 49, 52-54, 64, 69, 71-79, 98, 118-122, 125, 131, 137, 139	100%	Roadwork, AC Pav, Underground
	3(7)	25%	
	16(7)	60%	
Waco Hercules, CA	55-67	100%	Landscape & Irrig.
Safety Sign Castro, CA	10(7) 24, 30-33, 163- 171	20% 100%	Signage
	48(7)	50%	
DRG Arcadia, CA	26-29, 39, 142, 148, 246-253	100%	Power & Control Panel
HighLight Electric Riverside, CA	172-175, 177-205	100%	Electrical
Maggiore Iron Wattsburg, CA	133-140, 176	100%	Water Well

AGC Notice: Performance and Payment Guarantees are required for all bids in alternate projects. For information call (916) 664-6100 or visit [www.agc.org](http://www.agc.org) or [www.construction.com](http://www.construction.com)

09/17/2012 13:24

Received  
18187679169

Sep 17 2012 01:32pm  
SECURITY PAVING CO.

PAGE 07/07

*H. V. CAMERON & SON P.C.*

09/07/2012 12:25

Received  
909-875-2249

Sep 7 2012 12:25pm  
MCM BLM

PAGE 02

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
REGISTRATION INFORMATION

Under Contract: MCM Construction, Inc.

The bidder must identify each subcontractor performing work to any project to consist of 1/2 of 1 percent of the total bid of \$10,000, whichever is greater (Per Govt Code § 4100 et seq.) Complete columns 1 and 4 and attach with the bid. Complete columns 2 and 3 and attach with the bid or file to (916) 227-6300 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a non-responsive bid.

Column 1: Bidder Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Kamler Kerman, CA	45	100%	Bridge Removal
MIR Stockton, CA	154-159 160 (T) 161,162	100% 00% 100%	Concrete Repair
Sevens Merced, CA	80-86	100%	FCC Paving
Florida Solimar Rubber Livermore, CA	77 (T) 105,106 108 (T)	70% 100% 70%	Rebar
SJI San Jose, CA	93	100%	Formwork
Graco Antelope, CA	107-109, 112, 113	100%	Sign Structures
CNJ Scottsdale, AZ	117	100%	Finishing Concrete

ALSO SEE: For information on the contract, the bidder is invited to attend a pre-bid meeting. For information on the contract or the project, contact the project engineer at (916) 227-6300. For information on the contract, contact the project engineer at (916) 227-6300. 1120 N Street, Ste 400, Sacramento, CA 95811.



**Main Office**  
P.O. BOX 620 / 6413 32nd Street / North Highlands / CA 95660  
(916) 334-1221 Estimating / Engineering FAX (916) 334-0562  
Accounting FAX (916) 334-8355

**Southern California Regional Office**  
P.O. BOX 867 / 19010 Slover Ave. / Bloomington / CA 92316  
(909) 875-0533 Engineering / Accounting FAX (909) 875-2249

Sent via Fax (916) 227-6282

October 5, 2012

State of California  
Department of Transportation  
Division of Engineering Services – MS 43  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816

Attn: John McMillan, Deputy Division Chief  
Division of Engineering Services

Re: Caltrans Contract No. 06-442624  
Bid Opening Date: September 7, 2012  
Response to Bid Protest of Security Paving

Gentlemen:

As requested by Caltrans letter dated October 2, 2012, this letter is MCM Construction, Inc.'s response to the bid protest submitted by the disgruntled 2<sup>nd</sup> bidder for this Contract.

The bid of MCM Construction, Inc., for the above referenced project is the low, responsive bid submitted to Caltrans for this Contract. It is the legal obligation of Caltrans to reject the bid protest as being without merit, since there is no evidence of any violation of the bid specifications or the Subletting and Subcontracting Practices Act (Public Contract Code sec. 4100 et seq.) Pursuant to the requirements of the bid specifications and as a matter of California Law, the contract for the Project must be awarded to the lowest responsive, responsible bidder, MCM Construction, Inc. We request that Caltrans provide us with copies of any other bid protest communications that Caltrans has received from any other bidders with respect to this Project.

State of California  
Department of Transportation  
Re: Caltrans Contract No. 06-442624  
Bid Opening Date: September 7, 2012  
October 5, 2012  
Page 2

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**There Are No Revisions to the Subcontractor List submitted by MCM.**

Security Paving contends that the Subcontract Listing (Form DES-OE-0102.2 (Rev. 3/2011)) submitted by MCM within 24 hours is materially different from the bid information submitted on the day of the bid opening. Security Paving makes this assertion by merely pointing out that the bid items listed by MCM in its submission 24 hours after the bid opening are more numerous as compared to the general description of the work to be subcontracted to Granite Construction that is included in the bid day Subcontractor List form. Security attempts to make its point by including the Bid Item Description for each of the bid items listed by MCM for the work to be subcontracted to Granite.

All of the bid items listed in Column 2 of the Subcontractor List are consistent with the Column 4 work descriptions listed by MCM with its bid. All of the Bid Items listed for work to be subcontracted to Granite by MCM are consistent with "Roadwork, AC Pave, Underground" stated in Column 4 in both the listing submitted by MCM on bid day and in the listing submitted on the day after the bid opening. There are no revisions to the information submitted on the day of the bid. The only difference between the Subcontractor List submitted with MCM's bid and the Subcontractor List submitted within 24 hours is the Bid Item numbers and the percentage of the Bid Item to be performed by Granite as is required by the bid specifications.

**Contract 04-3A23U4 Determinations are not Applicable to MCM's bid**

In the case of Contract 04-3A23U4, cited by Security Paving as precedence in this matter, the bids that were found to be Non Responsive on that contract all involved Subcontractor Lists that included subcontractor work on the listing submitted after 24 hours of the bid opening that was clearly different from the work descriptions in Column 4 of the Subcontractor List submitted with the initial bids.

In the case of the bid of O. C. Jones and Sons on that Contract, O.C. Jones listed Myers and Son as a subcontractor with a description of work in Column 4 as "Bridge Structures." In its listing submitted 24 hours after the bid opening, O. C. Jones included Bid Item No. 127, Structure Concrete Retaining Wall (emphasis added) and Bid Item No. 128, Structure Concrete Sound Wall (emphasis added) in Column 2, which clearly are not "Bridge Structures." (Emphasis added)

In the case of the bid of Ghilotti Brothers/RM Harris JV (JV), on that Contract, the Joint Venture bid listed Atlas Tree Surgery, Inc. (Atlas) with a description of work in Column 4 as "Clearing and Grubbing." In its List submitted 24 hours after the bid opening, the JV listed Atlas for Bid

State of California

Department of Transportation

Re: Caltrans Contract No. 06-442624

Bid Opening Date: September 7, 2012

October 5, 2012

Page 3

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Item No. 232 "Root Wad Revetment" and Bid Item No. 92 "Roadside Clearing" in Column 2. Again, the bid items listed by the JV for Atlas are clearly revisions to the work description in Column 4 that was limited to a specific item of work of "Clear and Grub." (Bid Item No. 74)

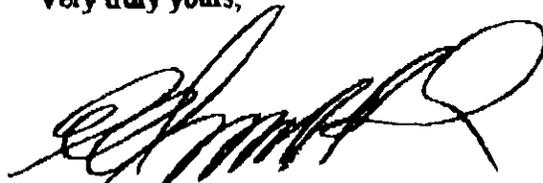
MCM's low responsive bid on Contract No. 06-442624 does not include any such revisions to the Subcontractor List work descriptions in Column 4 submitted with its bid and the bid items listed in Columns 2 submitted within 24 hours after bid opening. The Bid Item Nos. listed by MCM for Granite Construction's subcontract work are consistent with the work description set forth in the Subcontractor List submitted at the time of the bid opening. All of those bid items can easily be included as part of "Roadwork, AC Paving, and Underground" work

The bid specifications require that the information in Columns 1 through 4 must be complete. There is no requirement that the Bid Item Descriptions in the Bid Item List be the same as the work descriptions listed in Column 4. Further, since Caltrans' stated policy for the specification requirement of submitting the Subcontract List information is to prevent the potential of any bid shopping or bid peddling after the time of bid opening, it should be noted that MCM has listed all of the work bid items bid by Granite to MCM prior to the bid opening on September 7, 2012.

Caltrans must act to protect the best interests of the public by rejecting the bid protest of Security Paving and award this Contract to MCM Construction, Inc., the low responsive responsible bidder.

Please feel free to contact the undersigned if you require any further information in this regard and we thank you for your continued cooperation in this matter.

Very truly yours,



EDMUNDO A. PUCHI  
Treasurer and General Counsel

cc: Jim Carter  
Harry McGovern  
Jun Coppini  
Bid File

# EXHIBIT G



California LIC #403896 CLASS C32  
 Hawaii LIC #C-11286  
 Nevada LIC #0039313  
 Oregon LIC #118214  
 Small Business Enterprise #0020572

## Revised - Bid Proposal

TO: Contractors  
 LOCATION: Placer County  
 PROJECT: 03-3E1004 - 03-Pla-808.1/37.8

QUOTED BY: Darren Smith  
 BID DATE: Wednesday, November 06, 2013  
 BID TIME: 2:00 PM

ITEM NO.	ITEM DESCRIPTION	UNITS	UOM	UNIT PRICE	TOTAL AMOUNT
1	LEAD COMPLIANCE	1	LS	1,500.00	1,500.00
5	TRAFFIC CONTROL	1	LS	14,400.00	14,400.00
7	TEMPORARY PAVEMENT MARKING	440	SF	5.50	2,420.00
8	TEMPORARY TRAFFIC STRIPE	61,500	LF	0.35	21,525.00
9	CHANNELIZER (SURFACE MOUNTED)	500	EA	33.00	17,500.00
10	TEMPORARY PAVEMENT MARKER	8,130	EA	3.50	28,455.00
36	REMOVE YELLOW THERMOPLASTIC TRAFFIC STRIPE (HAZARDOUS WASTE)	19,000	LF	0.75	14,250.00
44	REMOVE PAINTED TRAFFIC STRIPE	31,000	LF	0.40	12,400.00
45	REMOVE PAINTED PAVEMENT MARKING	130	SF	2.25	292.50
46	REMOVE THERMOPLASTIC TRAFFIC STRIPE	16,000	LF	0.50	8,000.00
179	4" THERMOPLASTIC TRAFFIC STRIPE	57,900	LF	0.40	23,160.00
180	8" THERMOPLASTIC TRAFFIC STRIPE	3,540	LF	0.80	2,832.00
181	THERMOPLASTIC PAVEMENT MARKING	2,020	SF	5.00	10,100.00
182	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 12-3)	120	LF	0.18	21.60
183	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 36-12)	32,900	LF	0.18	5,922.00
184	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 17-7)	630	LF	0.18	113.40
185	4" THERMOPLASTIC TRAFFIC STRIPE (RECESSED, BROKEN 36-12)	1,010	LF	4.00	4,040.00
186	4" THERMOPLASTIC TRAFFIC STRIPE (RECESSED)	2,010	LF	4.00	8,040.00
187	8" THERMOPLASTIC TRAFFIC STRIPE (RECESSED)	140	LF	8.00	1,120.00
188	PAVEMENT MARKER (RETROREFLECTIVE)	1,500	EA	3.50	5,250.00
189	PAVEMENT MARKER (RETROREFLECTIVE-RECESSED)	52	EA	20.00	1,040.00
SEE PAGE 2 OF 2 FOR SPECIFIC TERMS AND CONDITIONS RELATING TO THIS QUOTATION.					
THIS TRANSMISSION CONSISTS OF TWO PAGES. IF THE TRANSMISSION IS NOT LEGIBLE PLEASE CONTACT OUR OFFICE.					
					TOTAL \$ 182,381.50

SELF PERFORM  
 SELF PERFORM  
 SELF PERFORM  
 SELF PERFORM

ACCEPTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

P.O.# OR CCO #: \_\_\_\_\_

TOTAL SELF PERFORM = \$84,300

TOTAL SUBCONTRACT = \$98,081.50



# FAX

4001 Bradshaw Road  
Sacramento, CA 95827  
Phone: 916-855-4400  
Fax: 916-369-0429  
BID FAX 916-369-0429

To: <u>MR. JOHN McMILLAN</u>	From: <u>COLIN CRAWFORD</u>
Company: _____	Date: <u>12/5/13</u>
Fax: <u>916-227-6282</u>	Total Pages (including cover page): <u>50</u>
Phone: _____	Sender's Reference Number: _____
RE: <u>PROTEST RESPONSE</u>	Your Reference Number: _____

- Urgent     
  For Review     
  Please Comment     
  Confirm Receipt

Notes and Comments: