

January 14, 2015

Via Fax, Email & Overnight Mail

Earl Seaberg, Chief, Office of Contract Awards & Services
John McMillan, Deputy Division Chief
Office Engineer – MSC 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Gordon N. Ball Inc.

General Engineering Contractors

Reference: Contract 03-4F3404
03-Pla,Nec-80-69.3/69.8, 0.0/R2.3
Bid 10/15/2014

Tel 925.838.5675

Dear Mr. McMillan:

Fax 925.838.5915

This letter is a formal protest of the Department's letter dated January 9, 2015, which asserts that the bid of Gordon N. Ball, Inc. for the above referenced contract is nonresponsive. We also protest the award of this contract to any contractor other than Gordon N. Ball, Inc., which submitted the lowest responsive bid.

333 Camille Avenue

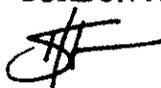
Alamo, CA 94507

The Office of Engineer has erred in asserting the Gordon N. Ball, Inc.'s bid was nonresponsive because, in three instances, a subcontractor was listed for on the DBE Commitment Form for an item for which a subcontractor had not been listed in our Subcontractor List. However, no subcontractor was required to be identified in the Subcontractor List for these items because each item had a cost of less than 1/2 of 1% of the overall price of Gordon N. Ball, Inc.'s bid. Under both Section 4014 of the Public Contract Code and the instructions on the Subcontractor List Form (DES-O3-0102.2), Gordon N. Ball, Inc. was not required to list subcontractors for these three items in its Subcontractor List.

The Department's action in purporting to reject Gordon N. Ball, Inc.'s responsive bid is illegal, arbitrary, and capricious. Any contract awarded to another bidder will be unlawful and void. The Department's action in purporting to reject a valid, responsive bid is clearly taken in retaliation for Gordon N. Ball, Inc. having exercised its constitutional right to seek judicial review of mistakes by the Department's employees.

At this time, much work and planning is being performed by the State of California to implement a budget for much needed highway construction. It makes no sense for the Department to engage in punitive actions that will add \$217,095, or more than 6.5%, to the price of this contract, with no benefit whatsoever to the taxpayers and motorists. The Department's irrational and punitive actions will only weaken the Department's position in connection with the litigation currently pending. We therefore respectfully request reconsideration by the Department of the matters set forth in its January 9, 2015, letter, and that the Department stay the award of the contract pending that reconsideration.

GORDON N. BALL, INC.



Hal Stober
President