



C.C. MYERS INC.

September 26, 2014

State of California Department of Transportation
 Division of Engineering Services
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Attn: Mr. John C. McMillan

Re: Caltrans Contract 04-041004

Subject: Response to letter from American Civil Constructors

Dear Mr. McMillan:

Pursuant to Caltrans' request, C.C. Myers, Inc. is responding to the letter sent to Caltrans by Jeff Foerste of American Civil Constructors ("ACC") in regards to Caltrans Contract 04-041004. Please note that we are responding to the letter, but do not believe that a valid protest has been filed. Clinton C. Myers of Myers and Sons Construction LP is the Attorney-in-Fact for Myers and Sons/ACC, A Joint Venture ("MSJV"): As such, Mr. Foerste and ACC do not have the authority to file a protest on behalf of MSJV.

In its letter, ACC contends that the use of the word "Partial" in the description of the portion of work subcontracted dictates that the percentage of the applicable bid item subcontracted cannot be 100%. ACC makes the same argument for the reverse scenario, that not using the word "Partial" dictates that the percentage of the applicable bid item subcontracted must be 100%. ACC's contention is based on a misinterpretation of the intent of each of the columns in the Subcontractor List.

The percentages listed for a subcontractor are based on a simple equation. Per Caltrans' instructions on how to submit a responsive bid, "Percentages are the amount of the bid item subcontracted divided by the bid item total." This means that if the prime contractor is paying to a subcontractor the same amount or more than the bid item total, the percentage listed for the applicable subcontractor would be 100%. The same calculation would obviously apply to the opposite scenario- where a prime contractor pays a subcontractor less than the bid item total, the percentage listed for the subcontractor would be less than 100%. There is nothing within this equation that would affect a listed subcontractor's scope or description of work, it's simply using two figures to identify approximately the amount a subcontractor will be paid for work being performed on certain bid items.

Conversely, whereas the percentages are based on this simple equation, the description of the portion of the work listed for each subcontractor is specifically not. The description of the work describes the physical scope of work the subcontractor will be performing on the project. What the subcontractor is being paid to perform that work, and what the prime contractor is being paid under the applicable bid item, has no relationship to the description of the work itself.

For example, in the bid submitted by MSJV for this same contract, calculations show that Safety Striping Service, Inc. will be performing only 95% of the "Striping & Markers" portion of work- \$189,426 to be paid to Safety Striping (per the DVBE submittal) divided by the applicable bid items total of \$199,568 (MSJV's cumulative bid for bid items 12, 16 and 45-50). However, MSJV did not use the word "Partial" to describe Safety Striping's portion of work, presumably because all of the physical scope of work will be performed by Safety Striping. Subsequently MSJV did incorrectly list Safety Striping to perform 100% of all the applicable bid items, which is clearly not the case, but that does not affect the previous point. Based on the quote we received from Roadway Engineering Works Incorporated ("REWI"), we have reason to believe that an identical situation exists with the electrical scope of work in MSJV's bid for this contract. It would seem that REWI will be paid less than the bid item total for several of the electrical bid item, but MSJV did not write "Partial" to describe REWI's scope of work, again presumably because all of the physical scope of work will be performed by REWI.

ACC's letter also expresses concern over the addition of the word "Partial" in a subcontractor's description of work. Regardless of the presence or absence of the word "Partial," the description of the portion of work remains unchanged- Furnish Bridge Deck Treatment. Ultimately the bid items and percentages will identify the amount to be paid to a subcontractor for the work being performed, the word "Partial" has no effect on the description of the portion of work. In the instance cited by ACC on Caltrans Contract 07-1W6004, Toro Enterprises' 24 hour submittal added completely new and different descriptions of work for their subcontractor, and added a bid item. That is in no way comparable to this situation.

We appreciate ACC's concern over the integrity of the competitive bidding process, and trust that this appropriately addresses the comments outlined in ACC's letter. C.C. Myers, Inc. remains the lowest responsive and responsible bidder for this contract, and looks forward to working with Caltrans on the project. Should you have any questions, please contact me.

Very truly yours,



Linda J. Clifford
Chief Financial Officer
C. C. Myers, Inc.

Cc: SF