

**Main Office**

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Via Facsimile (916) 227-6282

April 3, 2015

To: Earl Seaberg
Contract Awards Branch Chief
Department of Transportation
Division of Engineering Services
Office Engineer MS 43
1727 30th Street
Sacramento, CA 95816

Re: Bid Protest
04-235624 Hwy 101
Bid Date: March 18, 2015

Dear Mr. Seaberg,

On Wednesday, March 18, 2015, MCM Construction, Inc bid the above referenced project. In reviewing the bid documents of the 1st and 2nd low bidders it is clear that both Ghilotti Bros. / R.M. Harris JV and Flatiron West Inc bids contain fatal errors. Accordingly, MCM Construction hereby formally protests an award of this contract to bidders Ghilotti/Harris JV and Flatiron. Their bids must be deemed nonresponsive.

The Dept. of Transportation must reject Ghilotti/Harris as nonresponsive because they failed to properly submit the Subcontractor List.

Ghilotti/Harris listed FBD Vanguard Construction to perform 100% of Bid Item 1391. This contract contains 162 Bid Items therefore there is a material discrepancy. Caltrans has previously rejected contractors for this same error. Please see the attached Caltrans letter regarding this issue.

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Earl Seaberg, Contract Awards Branch Chief
State Of California, Department Of Transportation
April 3, 2015

Re: Bid Protest

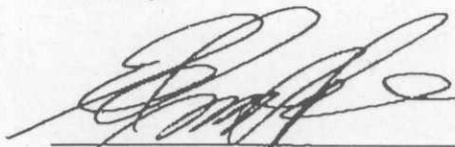
The Dept. of Transportation must reject Flatiron as nonresponsive because their DBE Commitment form is not consistent with their Subcontractor List.

The instructions on the DBE Commitment state, "The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List." Flatiron listed K & G Concrete on its DBE Commitment form to perform Bid Items 34, 65, 70, 71, 86, 87 and 88. However, on its Subcontractor List Flatiron listed K & G Concrete for Bid Item 87 only. Furthermore, the description of work for K & G on the DBE form is not consistent with the description of work on the Subcontractor List. The Subcontractor List describes K & G's Item 87 work as "Furnish Pump & Place Concrete For Bridge". The work description for K & G on the DBE form is for pumping only.

Based on this information, MCM Construction hereby protests an award of this contract to either Ghilotti Bros. / R.M. Harris JV and Flatiron West Inc.

Thank you for considering this matter.

Sincerely,



EDMUNDO A. PUCHI
Treasurer & General Counsel

/rm

Cc: JAC, HDM, RM
Bid File

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 04-235624 Project ID: 0400000678

Bidder Name: Ghilotti Bros/RM Harris JV

Bidder ID: VC0000108255

BID TO THE DEPARTMENT OF TRANSPORTATION

DES-08-0102.1

Name of Bidder Ghilotti Bros/RM Harris JV

Business Street Address 525 JACOBY STREET

(Include even if P.O. Box is used)

Business P.O. Box

City, State, Zip SAN RAFAEL, CA, 94901

Telephone No: AREA CODE 925-335-3000

Fax No: AREA CODE 925-335-2663

Contractor License No. 961014

California Department of Industrial Relations' Registration No. 1000014014

Checksum 0B8CB861

- 1. Bidder agrees, if this bid is accepted, to enter into a contract with the Department, in the form included in the Standard Specifications, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.

For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days shown on the Notice to Bidders.

For a cost plus time based bid on a contract without a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.

For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the nonplant establishment work within the number of working days bid for nonplant establishment work.

- 2. Bidder has and acknowledges the following addenda:3
03-06-15 Revise Project Plans, Notice to Bidders and Special Provisions, Bid
- 3. Bidder submits this bid with one of the following forms of bidder's security equal to at least 10 percent of the bid: Electronic Bidder's Bond
- 4. Bidder's signature is an affirmation of the included certifications. Bidder is cautioned that making a false certification may result in one or more of the following:
 - 4.1 Criminal prosecution
 - 4.2 Rejection of the bid
 - 4.3 Rescission of the award
 - 4.4 Termination of the Contract

PRINTED NAME: Thomas Barr AND
TITLE OF PERSON SIGNING: Partner

BY (Authorized signature)

DATE SIGNED(Do not type)

List this sub? Yes

2) Business Name Cal-Tex Masonry Inc.
 Location City Vacaville State CA
 California Contractor License Number 858463
 CA Department of Industrial Relations' Registration Number 1000005293
 Portion of Work Subcontracted:

Item #	Description
107 100	

List this sub? Yes

3) Business Name FBD Vanguard Construction
 Location City Livermore State CA
 California Contractor License Number 833032
 CA Department of Industrial Relations' Registration Number 1000008493
 Portion of Work Subcontracted:

Item #	Description
136 100	
1391 100	
140 100	
141 100	
142 100	



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 30th 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!*

September 15, 2011

Facsimile: (925) 605-4510

Robert P. Legg, President
Legg, Inc.
2551 2nd Street
Livermore, CA 94550

03-3M7504
03-Sac, Yol-80,275-Var
B.O. 8/30/11

Dear Mr. Legg:

Legg, Inc. submitted a bid on contract 03-3M7504 on September 30, 2011. By this letter, the Department notifies Legg, Inc. that its bid is nonresponsive because it failed to properly submit the Subcontractor List.

Legg, Inc. listed R. E. Serrano to perform 100% of Bid Item 39 described with a description of erect steel and concrete barrier. This contract has 38 Bid Items therefore there is a material discrepancy giving Legg, Inc. a competitive advantage.

Based on the above, the Department finds your bid is nonresponsive. The Department will award the contract to the lowest responsible bidder.

Sincerely,

JOHN McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

cc: California Engineering Contractors, Inc.
20 Happy Valley Road
Pleasanton, CA 94565
Fax: (925) 461-0510

03/26/2015 12:25 7877487387

Mar 26 2015 12:28pm FLATIRON

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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No. 04-235624 Project ID: 0400000678
Bidder Name: Flatiron West Inc
DES-OE-0102.2B (REV 5/2014)

Bidder ID: VCC000003877

Bidding Firm: Flatiron West Inc

List this sub? Yes

22) Business Name CHRISP COMPANY
Location City FREMONT State CA
California Contractor License Number 374600
CA Department of Industrial Relations' Registration Number 1000000306
Portion of Work Subcontracted:

Item #	Description
152 100	
153 100	

List this sub? Yes

24) Business Name R & G CONCRETE
Location City ROSEVILLE State CA
California Contractor License Number 982137
CA Department of Industrial Relations' Registration Number 1000004003
Portion of Work Subcontracted:

Item #	Description
87 9	FURNISH PUMP & PLACE CONCRETE FOR BRIDGE



STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE - COMMITMENT
DBE-CE-0102.100 (REV 12/2014)

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CONTRACT NO: **04-235624**

BID AMOUNT: **\$ 15,208,089.40**

BID OPENING DATE: **MARCH 18, 2015**

BIDDER'S NAME: **FLATIRON WEST INC.**

DBE COLL FROM CONTRACT #: **9Z**

DBE PRIME CONTRACTOR CERTIFICATION ¹	TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE)	TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE)
N/A	12	\$5,641,637.35

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	WORK CATEGORY CODES ³	NAME OF DBE <small>(Must be certified on the date bid was opened. Include Caltrans' certification no., DBE address, and phone number. Show zip and four digit contractor code)</small>	AMOUNT (\$)
34,65,70,	Concrete Pumping Services	C2800, C5100	K & G Concrete Pumping	\$148,514.68
71, 86,87,88			1079 Sunrise Ave Ste B 353 Roseville, CA 95661 Phone 916-539-6652	
		DBE NAICS Codes 238110, 484220 C08 Contractor	Cert # 38962	

Show all DBE items being bid on, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Proc Cont Code § 4108 et seq).

Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

If 100% of an item is not to be performed or finished by the DBE, describe the exact portion of the item to be performed or finished.

Use Work Category Codes from the California United Certification Program website.

Total Claimed Participation

\$ See Totals-Page 1

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (43 CFR 26.53).

W. Todd Bennett

Signature of Bidder
W. TODD BENNETT, VICE PRESIDENT
MARCH 19, 2015 707-742-6000
Date (Area Code) Tel No.

WILLIAM SIMON, ESTIMATING ADMIN.
Person to Contact (Please type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information, call (811) 445-1733, TTY 711, or write to: Records and Permit Management, 1120 N Street, MC-98, Sacramento, CA 95834.