



Lic. #749775

November 3, 2014

John McMillian
Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816-8041

Re: Contract Number 07-3X8204
Bid Opening Date: October 16, 2014
Bid Protest – Chumo Construction, Inc. (Apparent 1st Low Bidder)

Dear Mr. McMillian:

We hereby protest the award of the above-mentioned contract to the 1st apparent low bidder Chumo Construction, Inc. (Chumo) for the following:

Failure to Adequately List True Percentage of Subcontracted Work for Bid Item #7:

Upon review of Chumo's bidder documents posted at Caltrans' website, we found that Chumo listed Flatiron Electrical Group, Inc. (Flatiron) for 100 percent of Bid Item #7 (Exhibit 1). A further review of Chumo's Bid Item #7, shows that the price submitted by Chumo does not reflect the same price that Flatiron represented in their actual proposal. More importantly, the Subcontractor Listing does not reflect the true percentage of work being subcontracted to Flatiron.

Chumo's submitted price for Bid Item #7 is \$360,563.00 (Exhibit 2). However, Flatiron's proposal for Bid Item #7 exclusively is \$355,653.00 (Exhibit 3 & 4), which is below Chumo's bid price and represents less than 100% had Flatiron's proposal only included this dollar amount. However, Chumo completely excluded Flatiron's costs for "mobilization" (Bid Item #52), to perform the work for Bid Item #7, from its bid and Subcontractor Listing. As listed in Flatiron's proposal, their mobilization costs for performing the work for Bid Item #7 is \$20,000.00, which brings the total cost of Flatiron's work to \$375,653.00.

The prime contractor has two choices with regards to mobilization for the subcontractor's work for specific bid items. The prime can either incorporate those mobilization costs for the subcontractor's item work into each of the particular bid items to which they relate and not list the subcontractor for the specific bid item of mobilization. Or, the prime may separate the subcontractor's costs of mobilization and incorporate it into the specific mobilization bid item.

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However, in the latter case, the prime contractor would have to accurately list the subcontractor for the related mobilization bid item in the prime's Subcontractor Listing, providing the subcontracted amount is in excess of the Subletting Act threshold of $\frac{1}{2}$ of 1 percent or \$10,000.00. The prime contractor would also have to accurately record the percentage of work related to the subcontracted mobilization bid item. In Chumo's case, neither the true percentage of work nor the true bid items numbers, for which the work is subcontracted, are reflected accurately in Chumo's submitted Subcontractor Listing. Further, Chumo's bid price for Item #7 does not correlate with Flatiron's subcontractor quote.

On October 29, 2014, we contacted Flatiron's estimator, Mike Cuellar, to inquire if Flatiron reduced their costs to Chumo at any time before or after bid opening. Flatiron verified that they did not reduce their costs for either of the two bid items, to any prime contractor, prior to or post bid opening. We also confirmed that Flatiron did not have any communication with Chumo with regards to the total amount that Chumo listed Flatiron. The true cost of Flatiron's subcontracted work is \$375,653.00.

As Caltrans is aware, California courts have held that a mistake with regards to the percentage of work to be completed by a subcontractor is a mistake which provides the public entity no choice but to reject the bid. Please review, Valley Crest Landscape, Inc. v. City Council of the City of Davis (1996) 41 Cal.App.4th 1432.

Caltrans has always applied a strict standard with the information that is required in the Subcontractor Listing. Caltrans has upheld numerous nonresponsive finding for irregularities, mistakes, omissions, changes, etc. that are found in the Subcontractor Listing. Please see Caltrans Contract #02-0E3604 and #08-0P2804 (Exhibit 5 & 6), in which Caltrans held the bidder nonresponsive within this last month for similar irregularities in the Subcontractor Listing.

Failure to Adequately List True Percentage of Subcontracted Work for Bid Item #43:

Chumo's Subcontractor Listing also misrepresents the work that is to be performed by Condon-Johnson for Bid Item #43. In this case, Chumo lists Condon-Johnson for 100 percent of Bid Item #43, which is Clean & Paint Steel (Exhibit 1). Chumo's total price for Bid Item #43 is \$11,250.00 (Exhibit 7). Bid Item #43 requires the contractor to clean and paint the steel soldier piles (Bid Item #s 34 & 35 respectively). This work consists of applying a zinc undercoating from a SSPC Certified Enclosed Shop, for which Chumo listed Condon-Johnson. The misrepresentation occurs because the work in Bid Item #43 also consists of applying a final paint coating, in the field, after the steel soldier piles are installed, which Condon-Johnson excluded from their work and proposal (Exhibit 8).

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Condon-Johnson's proposed price for the enclosed shop portion of Bid Item #43 is \$11,250.00, which is also Chumo's total bid price for the said item. Meaning, Chumo did not represent the costs for the field painting work as required for the said bid item, nor is Condon-Johnson performing 100 percent of the work described for Bid Item #43. Therefore, the percentage of work in Chumo's Subcontractor Listing is inaccurate.

Lastly, please refer to Section 59-2.01C(2) of the contract's Special Revision, which revised Caltrans' 2010 Standard Specification (Exhibit 9). In the said Section, the contractor is required to submit proof of an AISC420-10/SSPC-QP3 certification for Bid Item #43. A search of both the American Institute of Steel Contractors (AISC) and the Society of Protective Coatings (SSPC) databases indicate that Condon-Johnson does not have the required certification to even perform the work for which Chumo listed them to complete in its entirety (Exhibits 10, 11 & 12). In fact, Chumo submitted a SSPC-QP3 certification from Techno West, Inc., with its DBF information, which stands to reason that Techno West, Inc. may be the actual contractor performing the work for the enclosed shop portion of Bid Item #43. Either way, Chumo's Subcontractor's Listing percentages do not accurately reflect the actual work being subcontracted thereby rendering Chumo's Subcontractor Listing noncompliant with the Subletting Act and/or Caltrans' Subcontractor Listing requirement.

Due to the aforementioned, Caltrans has no option, but to reject Chumo's bid and find Chumo nonresponsive for failure to accurately represent the true percentages of subcontracted work in their submitted bidder proposal and Subcontractor Listing.

We hereby request that Caltrans proceed with award the the next apperent lowest responsive bidder, HighLand Consttuciton, Inc.

If you have any further questions, please do not hesitate to contact our office. Thank you.

Respectfully,



Kristi Stelle
VP of Operations

KS:er
Attachments (12)
VIA: FAX & GSO

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-0E-0102.2B (REV 5/2014)

Bidding Firm: Chuma Construction Inc. Contract: 07-3X8204

Under Public Contract Code § 4100 et seq. the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted

Business Name and Location	California Contractor License Number (a)	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
ACL Ontario, CA		Barrier Rail. Partial Form and Pour	48, 49	48.8%, 26.4%
Condon-Johnson Ontario, CA		Clean and Paint	43	100%
Condon-Johnson Ontario, CA		Drill Piles partial (drill only)	36, 37	97.3%, 79.2%
Flatiron Electric Group Chino, CA		Electric	7	100%
Acc Fence La Puente, CA		Metal Beam Guard Rail	20, 21, 44, 46, 47	100%
Rouch Rebar Lakewood, CA		Rebar	41, 48, 49	100%, 18.2%, 18.1%
Cal-stripe Colton, CA		Striping	4, 5, 19, 22, 50, 51	100%

^a Not required on contracts with Federal-Aid.

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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 07-3X8204 Project ID: 0713000218
Bidder Name: CHUMO CONSTRUCTION INC

Bidder ID: VC0000022190

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
1	070030	LEAD COMPLIANCE PLAN	LUMP SUM LS	LUMP SUM	2,250.00
2	120090	CONSTRUCTION AREA SIGNS	LUMP SUM LS	LUMP SUM	3,650.00
3	120100	TRAFFIC CONTROL SYSTEM	LUMP SUM LS	LUMP SUM	188,500.00
4	120149	TEMPORARY PAVEMENT MARKING (PAINT)	72.0 LF	5.00	360.00
5	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	1,700.0 LF	3.00	5,100.00
6	120165	CHANNELIZER (SURFACE MOUNTED)	45.0 EA	25.00	1,125.00
7	128601	TEMPORARY SIGNAL SYSTEM	LUMP SUM LS	LUMP SUM	360,653.00
8	129000	TEMPORARY RAILING (TYPE K)	780.0 LF	14.00	10,920.00
9	129100	TEMPORARY CRASH CUSHION MODULE	11.0 EA	300.00	3,300.00
10	130100	JOB SITE MANAGEMENT	LUMP SUM LS	LUMP SUM	1,000.00
11	130200	PREPARE WATER POLLUTION CONTROL PROGRAM	LUMP SUM LS	LUMP SUM	1,500.00
12	130510	TEMPORARY MULCH	460.0 SQYD	10.10	4,646.00

Oct. 16. 2014 1:11PM

No. 462 P. 2/2

Notes:

- x Quote valid 60 days.
- x Includes minor Traffic Control for our work only.
- x Price based on Caltrans 2010 Standard Plans and Spec's.
- x Quote includes generator maintenance & fuel during construction.

Flatiron Electric Group, Inc.



Mike Cuellar
Estimator

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr. Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



Serious drought.
Help save water!

October 2, 2014

Facsimile: (916) 638-9867

Thomas A. Reid, President
Tricon Construction Inc. dba Tricon Aquatics
11419 Sunrise Gold Circle
Rancho Cordova, CA 95742

02-0E3604
02-Teh-5-10.5
B.O. 09/17/14

Dear Mr. Reid:

The Department of Transportation (Caltrans) received a bid submitted by Tricon Construction, Inc. dba Tricon Aquatics (Tricon) for Contract 02-0E3604 on September 17, 2014. By this letter, Caltrans notifies Tricon that its bid is nonresponsive.

Caltrans 2010 revised Standard Specifications, Section 2-1.33C states in part, "...*The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted*". On the Subcontractors List form under Percent of Bid Items Subcontracted, Tricon listed the percentages for all bid items, with the exception of bid item 78, as a percentage of the total contract bid, rather than the percent of work to be performed. As a result, these percentages did not adequately represent an equivalent value/portion of work to be subcontracted.

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

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

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

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
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October 14, 2014

3698
Facsimile: (714) 646-3697

Anurag Singh, President
Dreambuilder
1324 E. Lawson Lane
Placentia, CA 92870

08-0P2804
08-Riv-60-1.6
B.O. 09/24/2014

Dear Mr. Singh:

The Department of Transportation (Caltrans) received a bid from Dreambuilder on contract 08-0P2804 on September 24, 2014. Dreambuilder listed All American Asphalt (AAA) to perform bid items 24, 25 and 30 (Remove Pavement Marker, Remove Roadside Sign and Clearing and Grubbing) on its Subcontractor's List form. Dreambuilder provided a description of the work to be performed as Hot Mix Asphalt and Rubberized Asphalt (paving only partial).

Caltrans reviewed the bid documents as submitted and determined that the given bid item numbers do not correspond to the description of work to be performed by AAA. As such, Caltrans was unable to interpret the bid as submitted and finds the bid nonresponsive.

Caltrans will proceed to award this contract to the lowest responsive bidder, provided that all requirements have been met.

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

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 07-3X8204 Project ID: 0713000218

Bidder Name: CHOMO CONSTRUCTION INC

Bidder ID: VC0000022190

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity Unit of Measure	Unit Price	Item Total
37	490603	24" CAST-IN-DRILLED-HOLE CONCRETE PILING	100.0 LF	490.00	49,000.00
38(F)	044755	STRUCTURAL CONCRETE, CIP LAGGING	6.0 CY	2,210.00	13,260.00
39(F)	510072	STRUCTURAL CONCRETE, BARRIER SLAB	108.0 CY	892.33	96,371.64
40	044756	PRECAST CONCRETE LAGGING	56.0 EA	496.66	27,812.96
41(F)	520101	BAR REINFORCING STEEL	2,628.0 LB	2.00	5,256.00
42(F)	044757	BAR REINFORCING STEEL (CIP LAGGING)	1,075.0 LB	2.00	2,150.00
43	590120	CLEAN AND PAINT STEEL SOLDIER PILING	LUMP SUM LS	LUMP SUM	11,250.00
44	832006	MIDWEST GUARDRAIL SYSTEM (STEEL POST)	60.0 LF	46.00	2,760.00
45	832070	VEGETATION CONTROL (MINOR CONCRETE)	51.0 SQYD	85.00	4,335.00
46	839543	TRANSITION RAILING (TYPE WB-31)	2.0 EA	3,400.00	6,800.00
47	839578	END CAP (TYPE TC)	2.0 EA	250.00	500.00
48(F)	839725	CONCRETE BARRIER (TYPE 736)	153.0 LF	122.97	18,814.41



**CONDON-JOHNSON
& ASSOCIATES, INC.
CONTRACTORS AND ENGINEERS**

October 16, 2014
(4 pages)

RE: Caltrans 07-3X8204 Slide Repair
Proposal

Estimating,

Condon-Johnson & Associates, Inc. (CJA) appreciates the opportunity to provide a proposal for the above referenced project. The prices shown below include labor, equipment and material to complete the Specific Scope of Work subject to Qualifications, which shall become part of any contract awarded to CJA and shall take precedence over any conflicting conditions, requirements, and/or statements.

Base Bid Pricing

Item	Quantity	Unit Price	Extension
#27 Concrete Backfill	52 cy	175	9,100
#34 Steel Soldier Pile HP 14x89	240 lf	95	22,800
#35 Install Steel Soldier Pile HP 14x117	4 ea	240	960
#36 30" Drilled Hole	381 lf	480	182,880
#37 24" CIDH	100 lf	480	48,000
#41 Bar Reinforcing Steel	2,628 lb	2	5,256
#43 Clean and Paint Steel Soldier Piling	1 ls	11,250	11,250
#52 Mobilization	1 ls	98,000	98,000
Total			378,246

Base Bid Scope of Work

- #27 Concrete Backfill - Provide concrete for soldier piles.
- #34 Steel Soldier Pile HP 14x89 - Provide HP 14x89 beams for soldier piles.
- #35 Install Steel Soldier Pile HP 14x117 - Cut Owner provided HP 14x117 beams to proper length. Repairs to damaged painted surfaces are excluded. Repairs to be made by others after beams have been installed and structure excavation is complete.
- #36 30" Drilled Hole - Install soldier piles to the depth and diameter shown on the drawings. CJA will use temporary casing where necessary and pull it after embedment depth has been poured.
- #37 24" CIDH - Install caissons to the depth and diameter shown on the drawings. CJA will use temporary casing where necessary and pull it after shaft has been poured. Provide and place structural concrete and sonotube as required.
- #41 Bar Reinforcing Steel - Provide and install reinforcing cages at 24" CIDH. Galvanized pin hook cages are included.
- #43 Clean and Paint Steel Soldier Piling - Clean and paint HP 14x89 beams with undercoat only. Area to be cleaned and painted is the shored height of each beam plus 1 foot. Final coat to be applied by others after structure excavation.
- #52 Mobilization - A single mobilization to the site has been included.

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OAKLAND, CA 94621
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FAX: (510) 588-8316

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KENT, WA 98001
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C & K Johnson Industries, Inc.	Mr. Andy Hauan	CA	CBR, STD, P1, IBR
ConXMG Hayward Division of ConXtech, Inc.	Mr. John Reide	CA	STD, P1
EW Corporation	Mr. Angel Monge	CA	CBR, STD, F, P1, IBR
Global Fabricators a division of MCM Fabricators, Inc.	Mr. Bill Cheney	CA	STD, SBR, P1
Korn Steel Fabrication, Inc.	Mr. Larry Childress	CA	STD, P1

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* However it is not unusual for the company to do additional work outside of their normal business area.

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QP3 Shop Type: Closed

Company Name: Condon-Johnson

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AK
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Country: United States

Zip

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Company Name City State Options

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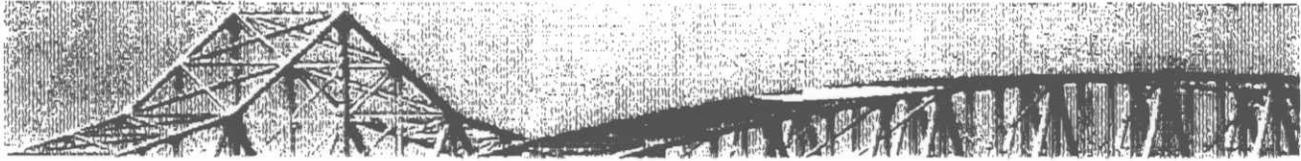
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