



October 2, 2013

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

Attn: John C. McMillan
 Mulissa Smith

Ref: Contract 10-OT1604
 26-18.5/19.010-SJ

Dear Mr. McMillan,

RGW is in receipt of your letter dated October 2, 2013 rejecting RGW's protest of Cal Trans' determination that RGW Construction, Inc. both mathematically and materially unbalanced its bid on contract 10-OT1604. Your response says that using RGW, the 'State would ultimately pay a higher overall total price for the contract', yet you provide no calculation or objective logic or reasoning to demonstrate that. The reason you did not provide any valid defense of that position is because there is none. Your rambling narrative on the responsibilities of the Engineer and Cal Trans' decision making processes does not hide the fact that your argument is without any merit. You have no evidence that the State will be better off rejecting RGW and awarding to Chester Bross Construction. We have demonstrated with numerous examples and calculations that the State will in fact be worse off by rejecting RGW's bid.

For a bid to be a "materially" unbalanced bid it must "generate a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the State". As we demonstrated in our protest letter, every conceivable quantity calculation results in RGW being the lowest cost to the State.

- If there is zero quantity of import borrow, RGW's bid is the lowest cost to the State.
- If the bid quantity is correct, RGW's bid is the lowest cost to the State.
- If the import borrow quantity under runs, RGW's bid is the lowest cost to the State.
- If the quantity of import borrow overruns by up to 125%, RGW's bid is the lowest cost to the State.
- If the quantity overruns greater than 125%, RGW's bid is the lowest cost to the State.

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RGW Construction is the lowest responsible and responsive bidder. Cal Trans has rejected our bid in error. It refuses to recognize that it has erred and is currently moving forward with the contract award that violates public contract code. RGW requests an immediate hearing to address this matter before the contract is awarded. Should an award to Chester Bross Construction occur prior to our hearing, RGW will take any and all legal action to stop this award.

Sincerely,



William S. Stewart
President
RGW Construction, Inc.



RGW CONSTRUCTION, INC.

FAX TRANSMITTAL

DATE: 10/3/13

TIME: 12:50

NAME: John McMillan / Mullisa Smith

COMPANY: Cal Trans Div. of Engineering SCS

FAX NUMBER: 916/227-6282

FROM: Bill Stewart

TRANSMITTING FROM: **RGW CONSTRUCTION - 925/606-2499**

TOTAL NUMBER OF PAGES INCLUDING THIS SHEET: 3

ORIGINAL TO FOLLOW BY MAIL: YES NO

If you do not receive all pages, please call us back as soon as possible
925/606-2400

COMMENTS: _____

**Thank you
Diane Lima
Certified Payroll Clerk**

AN EQUAL OPPORTUNITY EMPLOYER

