

TEICHERT CONSTRUCTION

Established 1887

March 26, 2014

VIA FACSIMILE (916) 227-6282 AND U.S. MAIL

John C. McMillan
Deputy Division Chief
Office Engineer
Division of Engineering Services
State of California
Department of Transportation (Caltrans)
1727 30th, Bidder Exchange, MS 43
Sacramento, CA 95816-8041

Subject: Contract No. 10-0Y1204
10-Mer-S9-7.9/14.1
Bids Opened: March 12, 2014
Bid Protest of Teichert Construction to Award of Contract to Sierra Nevada Construction Inc.

Dear Mr. McMillan:

Teichert Construction ("Teichert"), the second lowest monetary bidder for the above referenced project, hereby protests the bid of the lowest monetary bidder, Sierra Nevada Construction Inc. ("SNC"). As explained in more detail below, SNC's bid fails to comply with both State and Federal contract approval processes. Therefore, SNC's bid must be rejected as nonresponsive, and Teichert is the lowest responsive and responsible bidder eligible for award.

As part of the bid review and contract award process, the Department must examine the submitted bids to determine whether each bid is responsive. A bid is not responsive if the bid is unbalanced to the detriment of the State (materially unbalanced). There is no doubt SNC has unbalanced its bid to gain a competitive advantage for bid comparison purposes, and that SNC's unbalanced bid will cause the State to pay a higher overall price for execution of the work if the Contract is awarded to SNC. SNC's bid is materially unbalanced as follows:

1. **SNC unbalanced its unit cost bid with respect to Bid Item No. 12 – Emulsified Recycling Agent.**

Item No.	Item Description	SNC's Bid	Average of All Other Bids	Percentage SNC has Unbalance its Bid
12	Emulsified Recycling Agent (Cold In-Place Recycling)	\$157,500.00	\$ 375,498.00	138%

John C. McMillan
Deputy Division Chief
March 26, 2014
Page 2 of 6

Based on the information in the table above, it is clear that SNC's bid price is not in conformance with the other bids. SNC's bid price for Item No. 12 is \$157,500. The average price of all other bidders for Item No. 12 is \$375,498. SNC's bid for Item No. 12 is \$217,998, or 138%, less than the average price. Its obvious SNC has unbalanced its bid price for Item No. 12, and bid this item down.

Further confirmation SNC bid down its price for Item No. 12 is evident by reviewing SNC's submittal of its Certified Small Business Listing for the Non-Small Business Preference. In its Certified Small Business listing, SNC listed E.M. Oil Transport Inc. ("EM") for Item No. 12, and described EM's description of work as "Supply ERA". SNC listed the value of "Supply ERA" as \$362,500, or 130% more than SNC bid for Item No. 12. Clearly, SNC's bid price of \$157,500 for Item No. 12 does not reflect a reasonable cost, plus a reasonable proportional share of the bidder's anticipated profit, overhead costs, and other direct costs.¹

2. SNC unbalanced its lump sum bid with respect to Bid Item No. 3 – Traffic Control System.

Item No.	Item Description	SNC's Bid	Average of All Other Bids	Percentage SNC has Unbalance its Bid
3	Traffic Control System	\$777,942.50	\$ 171,059.43	455%

Based on the information in the table above, it is clear that SNC's bid price is not in conformance with the other bids. SNC's bid for Item No. 3 is \$777,942.50. The average price of all other bidders for Item No. 3 is \$171,059.43. SNC's bid for Item No. 3 is \$606,883.07, or 455%, more than the average price.

Clearly SNC has unbalanced its price for Bid Item No. 3, and bid this item up. SNC's bid is more than double the next highest submitted bid price for Item No. 3. It's reasonable to assume SNC's sky high bid price for Item No. 3 improperly includes costs from the other items.

3. The State will inevitably pay more as a result of SNC's unbalanced bid, if SNC is awarded Contract 10-0Y1204.

A bid is materially unbalanced if there is a reasonable doubt the bid will result in the lowest overall cost to the State even though it may initially be the low evaluated bid. As previously noted, SNC significantly underbid Item No. 12. Thus, it is reasonable to assume that SNC put a greater portion of the cost for Item No. 12 in other bid items, including Item No. 3 – Traffic Control System. SNC's unbalanced bid would effectively avoid sharing cost savings with the State that may result from the actual quantities installed for the work.

Attached is a letter from Pavement Recycling Systems ("PRS") summarizing the Cold In-Place Recycling projects it has completed for Caltrans in the past 2 years. Note the average application rate of emulsion on these various projects is 2.43%. Generally, Cold In-Place Recycling projects do not exceed an application rate of 3.0%. A very conservative application rate of 3.5% or greater would be extremely unusual and unlikely.²

¹ Copy of SNC's Certified Small Business listing for EM attached to this letter for your facility of reference.

² Copy of PRS' letter summarizing past projects is attached to this letter.

John C. McMillan
Deputy Division Chief
March 26, 2014
Page 3 of 6

SNC's unbalanced bid attempts to take advantage of the conservative application rate used by the Engineer, and SNC is betting the quantity for Item No. 12 will underrun. Assuming a typical dry weight for crushed AC at 135 pounds per cubic foot, an approximate application rate of 3.7% for emulsion is needed to quantify the 630 tons of Emulsified Recycling Agent listed for Item No. 12 in the bid item list.

The slightest of changes to the quantity for Item No. 12 will put the State at a disadvantage by requiring it to pay a higher overall price to SNC than it would otherwise pay to Teichert, the apparent 2nd low bidder. The following illustrates the change in total overall bid price when the likely application rates, based on historical costs, are used for the quantity of Item No. 12. In each scenario the State benefits by awarding the contract to Teichert, the 2nd lowest bid, rather than to SNC, the apparent low bid:

1. If we assume the average historical application rate of 2.43%, and thereby use the quantity of 410 tons of emulsion; the State will pay less, and save \$74,235.00 by awarding the contract to the 2nd low bidder, rather than accepting the unbalanced bid of SNC.

Bid Item No.	Item Description	Qty	UM	Apparent Low Bid Sierra Nevada Construction		2nd Lowest Bid Teichert Construction		Teichert is +/- from SNC's Total Bid
				Unit Price	Item Total	Unit Price	Item Total	
1-11, 13-22	All Bid Items except Item No. 12	-	-	-	\$1,898,507.00	-	\$1,680,772.00	(\$217,735.00)
12	Emulsified Recycling Agent	410	TN	\$250.00	\$102,500.00	\$600.00	\$246,000.00	\$143,500.00
	Total Bid				\$2,001,007.00		\$1,926,772.00	(\$74,235.00)

2. If we assume the high historical application rate of 3.0%, and thereby use the quantity of 506 tons of emulsion; the State will pay less, and save \$40,635.00 by awarding the contract to the 2nd low bidder, rather than accepting the unbalanced bid of SNC.

Bid Item No.	Item Description	Qty	UM	Apparent Low Bid Sierra Nevada Construction		2nd Lowest Bid Teichert Construction		Teichert is +/- from SNC's Total Bid
				Unit Price	Item Total	Unit Price	Item Total	
1-11, 13-22	All Bid Items except Item No. 12	-	-	-	\$1,898,507.00	-	\$1,680,772.00	(\$217,735.00)
12	Emulsified Recycling Agent	506	TN	\$250.00	\$126,500.00	\$600.00	\$303,600.00	\$177,100.00
	Total Bid				\$2,025,007.00		\$1,984,372.00	(\$40,635.00)

John C. McMillan
Deputy Division Chief
March 26, 2014
Page 4 of 6

3. *If we assume the highly unusual and highly unlikely application rate of 3.5%, and thereby use the quantity of 590 tons of emulsion; the State will pay less, and save \$11,235.00 by awarding the contract to the 2nd low bidder, rather than accepting the unbalanced bid of SNC.*

Bid Item No.	Item Description	Qty	UM	Apparent Low Bid Sierra Nevada Construction		2nd Lowest Bid Teichert Construction		Teichert is +/- from SNC's Total Bid
				Unit Price	Item Total	Unit Price	Item Total	
1-11, 13-22	All Bid Items except Item No. 12	-	-	-	\$1,898,507.00	-	\$1,680,772.00	(\$217,735.00)
12	Emulsified Recycling Agent	590	TN	\$250.00	\$147,500.00	\$600.00	\$354,000.00	\$206,500.00
	Total Bid				\$2,046,007.00		\$2,034,772.00	(\$11,235.00)

It is evident that in every scenario listed above, SNC's unbalance bid is not the true overall low bid. A bid which generates reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the State is a materially unbalanced bid. There is reasonable doubt SNC's bid will result in the lowest overall cost to Caltrans.

By accepting SNC's bid, Caltrans will eventually pay more to SNC than if it awarded the contract to Teichert, the 2nd low bidder. In fact the State is better off by awarding the Contract to Teichert, up to and including a quantity of 622 tons of emulsion (which as noted above would be an extremely unusual and unlikely high quantity). This is the case, because SNC has materially unbalanced its bid, thereby protecting money in lump sum items, and depriving the State of cost savings from a reduction in quantity for Item No. 12.

Caltrans has strictly interpreted and firmly enforced its bid balancing requirements. For example, on April 16, 2013, Caltrans rejected a bid by Sierra Nevada Construction Inc. ("SNC") on Contract No. 10-OX8504, because SNC bid items with unrealistic costs of only \$1.00, and subsequently bid up its price for Item 3 - Traffic Control System.

In its letter dated April 16, 2013, Caltrans determined it could not ascertain whether SNC's bid was truly the lowest responsible bid, because SNC's unrealistic costs unbalanced their bid.

SNC has again submitted the exact same type of bid, for which Caltrans found SNC's bid non-responsive on Contract No. 10-OX8504. Just as SNC bid items with unrealistic low costs, and bid up the traffic control Item many times more than what the Engineer deemed as reasonable on Contract No. 10-OX8504; SNC bid Item 12 for an unrealistic low cost of \$250 per ton, and bid up the traffic control Item on this contract. Thus, Caltrans cannot ascertain whether SNC's bid is truly the lowest responsible bid.

John C. McMillan
Deputy Division Chief
March 26, 2014
Page 5 of 6

Similarly, on August 28, 2013, Caltrans rejected a bid submitted by Teichert Construction on Contract No. 10-OT1604, because Teichert Construction bid Imported Borrow at unit cost of \$0.01. Another example that is directly on point are Caltrans' letters dated August 28, 2013 and October 2, 2013, addressed to RGW Construction Inc. ("RGW") in connection with its bid for Contract No. 10-OT1604 (on which RGW was the apparent low bidder).³

In its letter dated August 28, 2013, Caltrans rejected a low bid submitted by RGW, because RGW's proposed cost for Imported Borrow was bid at a \$0.01/CY. Based on the item cost RGW listed for Imported Borrow, Caltrans' determined RGW's bid was both mathematically and materially unbalanced, because there is reasonable doubt that RGW's bid would result in the lowest ultimate cost to the State.

SNC has submitted the exact same type of bid, for which Caltrans found RGW's bid nonresponsive in Contract No. 10-OT1604. Just as RGW's (and Teichert Construction's) bid of \$0.01 for Imported Borrow was determined by Caltrans as unrealistic, SNC has attempted to bid an unrealistic unit cost of \$250 per ton for bid Item 12 – Emulsified Agent Recycling. Consequently, SNC has generated reasonable doubt their unbalanced bid will result in the lowest ultimate cost to the State. Caltrans cannot accept the "unbalanced" bid submitted by SNC, as it would violate both the State and Federal contract approval processes.

Conclusion

Awarding this contract to SNC would be unfair to the other bidders who developed their bids based on realistic material and labor costs, as required by the project documents. Its unbalanced bid essentially provides SNC with a bid ranking advantage not afforded to other bidders.

More importantly, SNC's unbalanced bid provides a bid ranking advantage to SNC, at the cost of putting the State at a disadvantage. By bidding down its price for Item No. 12, and subsequently bidding up its price for Item No. 3, SNC's bid is structured to protect its revenue when the actual installed quantity for Item No. 12 is measured. Consequently, SNC's bid avoids sharing cost savings with the State, and the State is likely to pay more for the work if it awards the Contract to SNC, the apparent low bidder, than if it awarded the Contract to the apparent 2nd low bidder.

The most reasonable scenario is that the actual quantity installed for Item No. 12 will be approximately 506 tons. Thus, the State would eventually end up paying SNC \$40,635 more for the execution of the contract, than it would pay to Teichert, the apparent 2nd low bidder. Even in a highly conservative scenario, assuming an application rate of 3.5%, the State would still pay SNC \$11,235 more for the execution of the contract, than it would pay to Teichert, the apparent 2nd low bidder.

³ Copies of Caltrans' letters are attached to this letter for your facility of reference.

John C. McMillan
Deputy Division Chief
March 26, 2014
Page 6 of 6

Based on the information presented herein, governing regulations and specifications, the bid of SNC must be rejected as nonresponsive, along with its bid being mathematically and materially unbalanced. Accordingly, the contract should be awarded to Teichert as the lowest responsive and responsible bidder.

Should you have questions or need additional information, I can be reached at (916) 645-4855.

Sincerely,



Eric Stannard
Director of Public Procurement

eb

Attachment

cc: T. Corvello – Teichert Construction
J. Thomassen – Teichert Construction



STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

BID BOOK

Contract No.: 10-0Y1204

Project No.: 1013000138

Bidder: VC0000016849 - Sierra Nevada Construction, Inc.

CERTIFIED SMALL BUSINESS LISTING FOR THE NON-SMALL BUSINESS PREFERENCE (cont'd)

Bid Item No. (s) : Example: 100, 200

12

Description of Work, Service, or Materials:

SUPPLY ERA

Firm Name: E.M. OIL TRANSPORT, INC.

Telephone: : 323-722-9088

SB Certification : 37828

\$Amount : 362,500.00 Example: 999,999

Bid Item No. (s) : Example: 100, 200

Description of Work, Service, or Materials:

Firm Name:

Telephone :

SB Certification :

\$Amount : Example: 999,999

Bid Item No. (s) : Example: 100, 200

Description of Work, Service, or Materials:

Firm Name:

Telephone :

SB Certification :

\$Amount : Example: 999,999

Bid Item No. (s) : Example: 100, 200

Description of Work, Service, or Materials:

Firm Name:

Telephone :

SB Certification :

\$Amount : Example: 999,999

Bid Item No. (s) : Example: 100, 200

Description of Work, Service, or Materials:

Firm Name:

Telephone :

SB Certification :

\$Amount : Example: 999,999

Bid Item No. (s) : Example: 100, 200

Description of Work, Service, or Materials:

Firm Name:

Telephone :



Pavement Recycling Systems

10240 San Sevaine Way, Jurupa Valley, CA 91752

PH: (951) 682-1091

FAX: (951) 682-1094

www.pavementrecycling.com

March 20, 2014

Teichert Construction

Attn. Tim Corvello-Estimator

265 Val Dervin Parkway

Stockton, CA 95206

Sent via e-mail: tcorvello@teichert.com

RE: Caltrans Contract 10-0Y1204

Mr. Corvello,

Attached is a summary of Caltrans projects we have completed over the past two years. This shows an average 2.43% application rate of emulsion on these projects. Most Contractors know as a general rule the application rate on these projects will not exceed 3%. It is a very safe bet that an application rate of 3.5% or greater is highly unusual and highly unlikely.

Using a typical dry weight of the crushed AC at 135 pounds per cubic foot an application rate of 3.7% would be required to consume the 630 tons of emulsion in this bid. The actual quantity should be 506 tons at 3% or less. An application rate of 3.5% would only require 590 tons of emulsion.

Lastly the emulsion price shown in the SNC proposal is \$250.00 per ton. The lowest available price from the emulsion manufacturers was \$542.00 per ton.

Respectfully,

Don Sante

Chief Estimator

**California Department of Transportation
Application rate of Emulsion on various Cold In-Place Recycling projects.**

Project Name	Contractor	Type	Emulsion Rate
08-1C8304/Rte111 (Near Desert Beach)	Skanska	CIR	2.5%
06-337414 / Porterville Rte.190	Griffith Comp.	CIR	2.3%
02-5E2104/Rte.36 (Chester)	Hat Creek	CIR	2.3%
10-0X9004 /Rte33 (Gustine)	Granite	CIR	2.0%
10-0X8504/Rta.59 (Near EL Nido)	Granite	CIR	2.8%
06-0Q3604/Rte5/119 Seperation	Griffith	CIR	2.0%
06-0Q0704/Rte33/Taft.	Granite	CIR	2.0%
06-0P7304/Rte.58,269 (Near McKittrick)	W. Jaxon Baker	CIR	2.5%
05-1F0104/Rte166 (Sta. Maria)	Calportland	CIR	2.0%
03-4M1604/Rte.32 (Chico)	Knife River	CIR	3.0%
02-4G1304/Rte.299 (Modoc)	Hat Creek	CIR	3.0%
07-1W0804/ Route 23 (Fillmore)	Granite	CIR	2.3%
01-0A0604/ Route 20	Argonaut	CIR	3.0%

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 169041
 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6280
 FAX (916) 227-6282
 TTY 711



*Flex your power!
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April 16, 2013

(775) 355-0535
 Facsimile: (415) 466-6315

Tim Morgan
 Sierra Nevada Construction, Inc.
 P.O. Box 50760
 Sparks, NV 89431

10-0X8504
 10-Mer-59-R0.2/7.9
 B.O. 03/19/2013

Dear Mr. Morgan:

The Department of Transportation (Caltrans) received a bid from Sierra Nevada Construction, Inc. (SNC) on the above referenced contract on March 19, 2013. By this letter, Caltrans notifies SNC that it will not be considered for award of this contract due to a determination that its bid is nonresponsive.

Caltrans performed a bid analysis to determine the significant differences between the Engineer's Estimate of the costs associated with this project and SNC's bid. The disparity of the between SNC's bid and Engineer's Estimate is related to the following:

1. Contract Items 8 through 13, and 17, were bid with a unit cost of only \$1.00 which is not a realistic unit cost for these items.
2. Contract Item 3, Traffic Control System was bid at \$1,189,459. This amount exceeded the Engineer's Estimate of \$96,000.

As you are aware, Caltrans receives many bids in response to its project delivery needs. In order to ensure the integrity of the bidding process, each bid is analyzed to determine its responsiveness. In this case, SNC by its own admission submitted an unbalanced bid and as a result of that action, Caltrans cannot ascertain whether the bid is truly the lowest responsible bid. Therefore, it is in the best interest of Caltrans to reject this bid, and award this contract to the next lowest responsible and 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—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!
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April 29, 2013

Facsimile: (775) 355-0535

Kevin L. Robertson, President
Sierra Nevada Construction, Inc.
P.O. Box 50760
Sparks, NV 89431

10-0X8504
10-Mer-59-R0.2/7.9
B.O. 03/19/2013

Dear Mr. Robertson:

The Department of Transportation (Caltrans) received the attached letter dated April 18, 2013 from Sierra Nevada Construction, Inc. (Sierra Nevada) protesting a non-responsive finding.

Sierra Nevada protest disputes the determination set forth in the April 16, 2013, correspondence from Caltrans stating that Sierra Nevada's bid was materially unbalanced and nonresponsive and that "it is in the best interest of Caltrans to reject the bid".

Caltrans has not changed its position concerning the finding of your bid being materially unbalanced and nonresponsive and will proceed to award this contract to the lowest responsible bidder, provided that all requirements are 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—CALIFORNIA STATE TRANSPORTATION 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

www.dot.ca.gov/hq/esc/oe

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August 28, 2013

Facsimile: (209) 983-2375

Mr. Daniel E. Brown, Estimating Manager
Teichert Construction
P. O. Box 1118
Stockton, CA 95201

10-0T1604
10-SJ-26-18.5/19.0
B.O. 7/23/2013

Dear Mr. Brown:

The Department of Transportation (Caltrans) received the attached bid from Teichert Construction (Teichert) for project 10-0T1604 on July 23, 2013, at which time Teichert was the apparent second low bidder. By this letter Caltrans notifies Teichert that its bid has been rejected due to unbalancing.

As you are aware, Caltrans evaluates each bid to determine whether a bid meets the requirements of both the State and Federal contract approval process. In this case, Caltrans Engineers evaluated the bid submitted by Teichert and determined that Teichert submitted a bid that was materially and mathematically unbalanced. Teichert's proposed cost for Bid Item 40, Imported Borrow, was \$0.01 for 13,000 CY for a total cost of \$130.00.

A mathematically unbalanced bid is a bid containing lump sum or unit bid items that do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs. A materially unbalanced bid is a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the State.

Caltrans receives many bids in response to its highway construction needs and strives to ensure the integrity of the competitive bidding process. Based on the item cost listed for Bid Item 40 it is Caltrans' determination that the bid is both mathematically and materially unbalanced as there is reasonable doubt that Teichert's bid will result in the lowest ultimate cost to the State.

Based on the above, the Department has determined that Teichert is no longer eligible for award of this contract. Caltrans will proceed to award this contract to the lowest responsible and responsive bidder.

Mr. D. Brown
August 28, 2013
Page 2

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

Attachment

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

www.dot.ca.gov/hq/esc/oc

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August 28, 2013

Facsimile: (925) 961-1925

Mr. Robert W. Purdy, Vice President/Secretary

RGW Construction Inc.

550 Greenville Road

Livermore, CA 94550

10-0T1604

10-SJ-26-18.5/19.0

B.O. 7/23/2013

Dear Mr. Purdy:

The Department of Transportation (Caltrans) received the attached bid from RGW Construction Inc. (RGW) for project 10-0T1604 on July 23, 2013, at which time RGW was the apparent low bidder. By this letter Caltrans notifies RGW that its bid has been rejected due to unbalancing.

As you are aware, Caltrans evaluates each bid to determine whether a bid meets the requirements of both the State and Federal contract approval process. In this case, Caltrans Engineers evaluated the bid submitted by RGW and determined that RGW submitted a bid that was materially and mathematically unbalanced. RGW's proposed cost for Bid Item 40, Imported Borrow, was \$0.01 for 13,000 CY for a total cost of \$130.00.

A mathematically unbalanced bid is a bid containing lump sum or unit bid items that do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs. A materially unbalanced bid is a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the State.

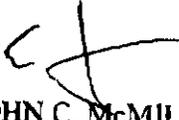
Caltrans receives many bids in response to its highway construction needs and strives to ensure the integrity of the competitive bidding process. Based on the item cost listed for Bid Item 40, it is Caltrans' determination that the bid is both mathematically and materially unbalanced as there is reasonable doubt that RGW's bid will result in the lowest ultimate cost to the State.

Based on the above the Department has determined that RGW is no longer eligible for award of this contract. Caltrans will proceed to award this contract to the lowest responsible and responsive bidder.

Mr. R. Purdy
August 28, 2013
Page 2

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

Attachment

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!*

October 2, 2013

Facsimile: (925) 961-1925

Mr. Robert W. Purdy, Vice President/Secretary
RGW Construction Inc.
550 Greenville Road
Livermore, CA 94550

10-OT1604
10-SI-26-18.5/19.0
B.O. 7/23/2013

Dear Mr. Purdy:

The Department of Transportation (Caltrans) received the attached letter from RGW Construction (RGW) protesting the rejection of its bid on project 10-OT1604 due to unbalancing. The protest states in part, "... that RGW analyzed the plans and determined there would not be a need for imported borrow, i.e. the site balances with nominal consideration for shrink. RGW factored this into the bid and passed the savings on to the State of California by virtue of our submitting the least cost bid". RGW requests Caltrans to rescind its bid rejection letter and award the contract to the lowest responsive and responsible bidder, RGW.

As you are aware, the Engineering decisions must be made by and are the responsibility of the engineer in responsible charge of the project. Caltrans relies on its Civil Engineers for both the design and quality assurance needs for all projects, including materials. Ultimately, Caltrans makes all final decisions on its projects as it relates to the relevance of plans, specifications and or materials used. As with all highway construction contracts, Caltrans strives to obtain the lowest bid; and at the same time assure fair and equitable evaluation of all bids. As such, regardless of the bidder's expertise, the bidder must submit a bid in accordance with the projects plans and specifications. In this case, RGW pre-determined that there would not be a need for imported borrow and submitted its bid for Bid Item 40 (imported borrow) for \$0.01 or \$130.00 for 13,000 cubic yards. While Caltrans agrees that some portion of the work may be adjusted, the State would ultimately pay a higher overall total price for the contract.

Therefore, Caltrans stands by its original decision that the bid submitted by RGW is both materially and mathematically unbalanced and will proceed to award this contract to the lowest responsible and responsive bidder.

Mr. R. Purdy
October 2, 2013
Page 2

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

Attachment



Stockton Office
265 Val Dervin Parkway
P.O. Box 1118
Stockton, CA 95201-0118
(209) 983-2300
Fax: (209) 983-2375

FAX COVER SHEET

TO: Office Engineer

COMPANY: State of California-Dept. of Transportation

FAX NUMBER: (916) 227-6282

PHONE NUMBER: N/A

FROM: Eric Stannard
Director of Public Procurement

DATE: March 26, 2014

PAGES: 18, including Cover Sheet

RE: Contract No. 10-0Y1204
10-Mer-59-7.9/14.1
Bids Opened: March 12, 2014
Bid Protest of Teichert Construction to Award of Contract to Sierra Nevada Construction Inc.

