DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe

Serious drought.
Help save water!!

February 12, 2015

Facsimile: (510) 526-0990

Greg Souder, Secretary
O.C. Jones & Sons, Inc.
1520 Fourth Street
Berkeley, CA 94710

01-0C3504
01-Lak-29-R34.4/R40.0
B.O. 11/13/14

Dear Mr. Souder:

The Department of Transportation (Caltrans) received the attached letter dated November 21, 2014, from O.C. Jones & Sons, Inc., (O.C. Jones) protesting the bid submitted by Ghilotti Bros., Inc. (GBI). The protest alleges that GBI made two errors on their Subcontractors List form. First, GBI listed Mike Brown Electric (MBE) for performing work described as "Bid Items 21 & 22" (Should Rumble Strip and Centerline Rumble Strip) and compounded the "Clerical Error" by listing MBE to perform 100 percent of the work on their 24-hour Subcontractor List instead of correcting the error on the 24-hour Subcontractor List. Second, the protest alleges that GBI was disingenuous in its explanation of the clerical error because although GBI stated that they intended to list Linear Options, Inc. (LOI) to perform the Rumble Strip work, they did not claim that they intended to use MBE for the electrical portion of the work, since GBI bid items 45-47 consistent with the dollar amounts bid by MBE to all other bidders.

With respect to MBE, GBI properly followed the bidding instructions on bid date by identifying a subcontractor and the description of work. On the 24 hour submittal, provided the same information and the corresponding bid item numbers. However, in accordance with the Public Contract Code 4107.5, which states in part,

The prime contractor as a condition to assert a claim of inadvertent clerical error in the listing of a subcontractor shall within two working days after the time of the prime bid opening by the awarding authority give written notice to the awarding authority and copies of that notice to both the subcontractor he or she claims to have listed in error and the intended subcontractor who had bid to the prime contractor prior to bid opening.

GBI submitted it's claimed of inadvertent error on November 14, 2014, 1 day after bid opening and properly notified both MBE and LOI. Caltrans accepted the claim of inadvertent error and allowed the substitution as neither party objected to GBI's claim.

As the protest pertains to the failure to list MBE for the electrical portion of work, there is nothing that appears on the face of the bid establishing GBI's intent to use MBE for Bid Items 45 and 47 and the resulting failure to properly list MBE for that same work. If GBI has failed to list a subcontractor for Bid Items 45 and 47, Caltrans has no other choice but to presume that GBI intends to self perform the work associated with those items. Caltrans does not find that GBI's bid contains a material error because it failed to list MBE for the performance of work associated with Bid Items 45 and 47.

Based on the foregoing, Caltrans finds that this protest does not have merit and will proceed to award this contract to Ghilotti Bros.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

** Transmit Conf.Report **

P.1 Feb 12 2015 04:01pm
CALTRANS CONTR AWARDS Fax 916-227-6282

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

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