



C.C. MYERS INC.

September 8, 2014

State of California Department of Transportation
Division of Engineering Services
Office Engineer
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Attn: Mr. John C. McMillan

Re: Caltrans Contract 03-4M7404

Subject: Protest of Award of Contract to American Civil Constructors West Coast, Inc.

Dear Mr. McMillan:

C.C. Myers, Inc. hereby protests the award of Caltrans Contract No. 03-4M7404 to American Civil Constructors West Cost, Inc. ("ACC") due to ACC's bid being mathematically and materially unbalanced. The contract should be awarded to C.C. Myers, Inc., the lowest responsive and responsible bidder.

The 2013 Contract Cost Data book shows that the statewide average unit price for Item Code 150310 Rapid Setting Concrete (Patch) is \$40.79 per cubic foot, and that the average in District 3 is \$36.60 per cubic foot. The average price proposed by the other bidders on this contract is \$42.35 per cubic foot. ACC proposes to complete the work for just \$2.00 per cubic foot, less than 5% of the statewide average and of the average price proposed by the other bidders on this contract.

ACC's bid is clearly mathematically and materially unbalanced. The price does not "reflect reasonable cost plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other direct costs" (Code of Federal Regulations, Title 23 §635.102). Furthermore, as evidenced by the extraordinarily low price proposed for the Rapid Setting Concrete (Patch) item, the bid submitted by ACC poses an unacceptable risk to Caltrans and generates a reasonable doubt that award of the contract to ACC would result in the lowest ultimate cost to the state.

As further confirmation that \$2.00 per cubic is an unrealistic and unreasonable price, we need only look at ACC's own history in bidding the Rapid Setting Concrete (Patch) scope of work:

- Caltrans Contract No. 10-0W6904- ACC's bid for Rapid Setting Concrete (Patch) was \$12.00 per cubic foot, six times their bid price on this contract.

- Caltrans Contract No. 03-0F6804- ACC's bid for Rapid Setting Concrete (Patch) was \$32.00 per cubic foot, sixteen times their bid price on this contract.
- Caltrans Contract No. 10-0W7104- ACC's bid for Rapid Setting Concrete (Patch) was \$25.00 per cubic foot, twelve and a half times their bid price on this contract.
- Caltrans Contract No. 03-3M6404- ACC's bid for Rapid Setting Concrete (Patch) was \$20.00 per cubic foot, ten times their bid price on this contract.
- Caltrans Contract No. 10-0X4404- ACC's bid for Rapid Setting Concrete (Patch) was \$40.00 per cubic foot, twenty times their bid price on this contract.
- Caltrans Contract No. 08-0M2404- ACC themselves filed a protest against the low bidder in which they cited the 2009 Contract Cost Data book's price for Rapid Setting Concrete (Patch) was \$31.59 per cubic foot, and even noted that the six bids received for the work (excluding the low bidder's proposal) averaged \$260.83 per cubic foot.

Further evidencing that ACC's bid is both mathematically and materially unbalanced, ACC also proposes an unreasonably low price for Bid Item 30 Temporary Decking. The average price proposed by the other five bidders for Bid Item 30 Temporary Decking is \$78,179.88. ACC proposes to perform the work for \$1,000, or less than 1.3% of the average of the other bidders. With such an extremely low price being proposed, Caltrans is deprived of the ability to properly assess the risk associated with awarding the contract to ACC.

ACC submitted a price for Rapid Setting Concrete (Patch) and Temporary Decking that clearly does not reflect reasonable cost plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other direct costs. Additionally, ACC's bid generates a substantial doubt that award of the contract to ACC would result in the lowest ultimate cost to the state as it would be impossible to identify where ACC has allocated the costs associated with the Rapid Setting Concrete (Patch) and Temporary Decking work, and therefore impossible for the state to realize the true savings in the likely event of a bid item quantity underrun or elimination by awarding this contract to ACC. The contract should be awarded to C.C. Myers, Inc., the lowest responsive and responsible bidder.

We appreciate your time and consideration in this matter. Should you have any questions, please contact me.

Very truly yours,



Shane Dees
 Vice President
 C. C. Myers, Inc.

Cc: SF