**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

*Flex your power!*
*Be energy efficient!*

December 4, 2013

Facsimile: (925) 961-1925

William S. Stewart, President
RGW Construction, Inc.
550 Greenville Road
Livermore, CA 94550

04-2A6204
04-Sol-12-20.6/23.5
B.O. 11/06/2013

Dear Mr. Stewart:

The Department of Transportation (Caltrans) received the attached letter dated November 22, 2013, from RGW Construction, Inc. (RGW) protesting the bid submitted by A. Teichert & Son, Inc. dba Teichert Construction (Teichert). The protest alleges that Teichert revised its 24-hour Subcontractor List form by adding Bid Item 32, Wildlife Exclusion Fence and Bid Item 33, Temporary Fence (ESA), which are not erosion control work. RGW is requesting that Caltrans find the bid submitted by Teichert nonresponsive and award the contract to RGW.

Caltrans completed a review of the bid documents and protest and determined that RGW's protest has merit and will proceed to award the 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

Attachment

# RGW CONSTRUCTION, INC.

November 22, 2013

**Faxed to: 916/227-6282**

Department of Transportation
Division of Engineering Services
Office Engineer, MS43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Attention: John McMillan, Deputy Division Chief

RE: 04-2A6204 – For Construction on State Highway in Solano County in and near Rio Vista from 0.1 Mile West of Currie Road to 0.3 Mile West of Summerset Rd
Bid Opening 11/06/2013

SUBJECT: BID PROTEST

Dear Mr. McMillan:

Please consider this letter as a protest of the bid submitted by Teichert Construction on project 04-2A6204. The bid submitted by Teichert is nonresponsive and must be rejected based on the Department's practices and applicable law.

Teichert Construction listed Selby's Soil Erosion Control Inc. to perform "Erosion Control Temp and Erosion Control Permanent" on the day of the bid. In its 24 hour subcontractor listing, Teichert added work to Selby's Soil Erosion Control, Inc. when it listed them to perform bid item 32 – Wildlife Exclusion Fence and bid item 33 – Temporary Fence (ESA).

Both these items of work are not erosion control work. Nowhere are these items found in the erosion control section of the plans, pp 35-45. They are found on the layout drawings pp 4-10. Furthermore, these items of work are described in Section 14 – Environmental Stewardship of the special provisions, not Section 13 – Water Pollution Control or Section 21 – Erosion Control.

This addition of work creates a revised "Subcontractor List" and is in violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code.

Teichert's bid should be rejected as nonresponsive and the project should be awarded to RGW Construction, Inc., the lowest responsive and responsible bidder.

Sincerely,

William S. Stewart, President
RGW Construction Inc.

/cd
Encl.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

# SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: A. Teichert & Son, Inc. dba Teichert Construction

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or $10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

| Column 1: Business Name and Location | Column 2: Bid Item Nos. | Column 3: Percentage of Bid Item Subcontracted | Column 4: Description of Subcontracted Work |
|---|---|---|---|
| Selbys Soil Erosion Control Inc. Newcastle, CA | | | Erosion Control Temp Erosion Control Permanent |
| All Steel Fence Inc. Lathrop, CA. | | | Fencing, Chain link railing and gate |
| Central Fence Co. Sacramento, CA | | | MBGR |
| Chrisp Company Woodland, CA | | | Striping, Channelizers, and Markers Removal of striping |
| RA Nemetz Galt CA | | | Structural concrete and Barrier |
| KC Foundation Constructors Oakley, CA | | | Sheet Piling |
| Hillside Drilling Richmond, CA | | | Shoring for head walls |

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

A. Teichert & Son, Inc. dba Teichert Construction

Contract No. 04-2A6204

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

# SUBCONTRACTOR LIST

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| Column 1: Business Name and Location | Column 2: Bid Item Nos. | Column 3: Percentage of Bid Item Subcontracted | Column 4: Description of Subcontracted Work |
|---|---|---|---|
| Selby's Soil Erosion Control, Inc. Newcastle, CA | 19 | 100% | Erosion Control Temp.. |
| | 20 | 100% | Erosion Control Permanent |
| | 22 | 100% | |
| | 23 | 100% | |
| | 25 | 100% | |
| | 26 | 100% | |
| | 32 | 100% | |
| | 33 | 100% | |
| | 58 | 100% | |
| | 60 | 100% | |
| | 61 | 100% | |
| | 63 | 100% | |
| | 64 | 100% | |
| | 65 | 100% | |
| | 66 | 100% | |
| Kil Steel Fence, Inc Lathrop, CA | 37 | 100% | Fencing, Chain Link Railing and Gate |
| | 38 | 100% | |
| | 103 | 100% | |
| | 104 | 100% | |
| | 105 | 100% | |
| | 110 | 100% | |
| Central Fence Co Sacramento, CA | 35 | 100% | MSGR |
| | 39 | 100% | |
| | 108 | 100% | |
| | 111 | 100% | |
| | 112 | 100% | |
| | 113 | 100% | |
| | 114 | 100% | |
| Chrisp Company Woodland, CA | 6 | 100% | Striping, Channelizers, and Markers. Removal of Striping |
| | 7 | 100% | |
| | 8 | 100% | |
| | 9 | 100% | |
| | 10 | 100% | |
| | 34 | 100% | |
| | 41 | 100% | |
| | 42 | 100% | |
| | 43 | 100% | |
| | 44 | 100% | |
| | 45 | 100% | |
| | 116 | 100% | |
| | 117 | 100% | |
| | 118 | 100% | |
| | 119 | 100% | |
| | 120 | 100% | |
| | 121 | 100% | |

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A. Teichert & Son, Inc. dba Teichert Construction

Received
Nov 7 2013 01:33pm
NOV-07-2013 01:31PM FROM-TEICHERT CONSTRUCTION 15304064298 T-858 P.002/003 F-480

** Transmit Conf.Report **

P.1 Dec 4 2013 03:44pm
CALTRANS CONTR AWARDS Fax 916-227-6282

| Fax/Phone Number | Mode | Start | Time | Page | Result | Note |
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| 919259611925 | Normal | 04:03:43pm | 1'14" | 5 | * O K | |

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

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