



## Ghilotti Bros / RM Harris JV

525 JACOBY STREET • SAN RAFAEL, CA 94901  
TELEPHONE (415) 454-7011 FAX (415) 454-8376

STATE CONTRACTORS LICENSE # 941014



Via Facsimile (916) 227-6282 & Certified Mail

March 21, 2014

State of California

Department of Transportation

1727 30<sup>th</sup> Street, Bidder Exchange, MS 43

Sacramento CA. 95816

Attn: John C. McMillan, Deputy Division Chief, Office Engineer

Re: Contract No. 04-3A8704

Near Marina Vista, Rehabilitate Mococo OH and SB Mococo Off-Ramp

Protest of Bid Submitted by Golden State Bridge Inc.

This is a formal protest of the bid submitted by Golden State Bridge, Inc. (GSB) in connection with Contract No. 04-3A8704. The bid of GSB is nonresponsive and therefore must be rejected because GSB failed to properly submit the Subcontractor List. Thus, the Department should award the job to the lowest responsive bidder, Ghilotti Bros / RM Harris JV.

The Subcontractor List form states in part, ... "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." **No other revisions to the form are permitted.**

In violation of this express requirement of the bid documents, GSB revised their Subcontractor List form by adding subcontracted work that was not listed on their bid day form. WABO Landscape and Construction was given more items than what was listed on the form at bid time, and PC & N Construction had some items added while others were removed. This is a violation of the Department's rules. Additionally, BioMaAS Inc. (BI) was listed as part of the DBE commitment but was not included in the subcontractor listing. Each one of these violations is sufficient to find GSB's bid non-responsive.



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WABO Landscape & Construction, Inc. was originally listed by GSB to perform "Plant Establishment, Soil Amendment, Plant Group I & M, Wood Mulch, and Foliage Protector." However, bid item 159, Rolled Erosion Control Product (Blanket) work was added to WABO's work on the 24 hour Subcontractor List submitted by GSB. (See attached). The Rolled Erosion Control Product (Blanket) was not listed on their Subcontractor list form nor is it related to or a component of any of the listed items.

Also, GSB listed PC & N Construction Inc. as performing "Treated Wood Waste, Remove Guard Rail, Guard Railing Delineator, Object Marker, Midwest Guard Rail, Transition Railing, End Cap, Alternative Inline Terminal System, and Crash Cushion (Type SCL-100GM)" on bid day and then added bid Item 128, "Alternative Flared Terminal System to their 24 hour letter. This item was not listed on their subcontractor list at bid time and is not related to or a component of the other items.

Furthermore, GSB did not list the bid item numbers 119 and 120 respectively for Guard Railing Delineator and Object Marker on the 24 hour letter. Claiming "inadvertent clerical error," as GSB did on March 7 (two days after bid day) is insufficient cause for the Department to find them responsive. Cal. Pub. Cont. code § 4107.5 involves substituting one subcontractor for another, not revising your subcontractor listing form after bid time. Additionally, no affidavits were filed as required by § 4107.5, and therefore GSB cannot avail itself of this provision. This failure itself is sufficient for the Department to find GSB non-responsive.

Another requirement of the Contract is that the names of the first tier DBE subcontractors and their respective items of work be consistent with the names and items of work in the Subcontractor List. GSB included BioMaAS Inc. (BI) in their DBE commitment but did not include BI in their Subcontractor List even though the value of BI's work exceeds ½ of 1% of the total Contract Bid. BI's work makes him a subcontractor, appearing onsite to conduct item work paid for at a lump sum value; thus, they needed to be listed on the Subcontractor list. Failing to list BI is sufficient to consider GSB's bid non-responsive.

On past contracts, the Department has rejected bids as nonresponsive where there is even a minor revision between the subcontractor list provided with the bid and the subcontracting information provided 24 hours later.

The Department owes a duty to enforce its bid requirements in a fair and uniform manner. Accordingly, because GSB has violated the Subcontracting Fair Practices Act of the Public Contract Code and the Department's longstanding bid requirements by



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seeking to change their subcontractor listings after bids were opened, the GSB bid must be rejected as nonresponsive. To do otherwise would give this contractor an unfair advantage in the bidding process.

We therefore respectfully request that the Department uphold the Ghilotti Bros / RM Harris JV protest and award the contract to our company, which submitted the lowest responsive bid for Contract No. 04-3A8704.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Harris". The signature is written in a cursive style with a long, sweeping flourish at the end.

David Harris

Joint Venture Partner

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**BID TO THE DEPARTMENT OF TRANSPORTATION**  
 DES-OE-0102.1 (REV. 3/2011)

CONTRACT NO. 04 - 3A8704

NAME OF BIDDER GOLDEN STATE BRIDGE, INC.

BUSINESS P.O. BOX \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

BUSINESS STREET ADDRESS 2990 BAY VISTA COURT, SUITE D

CITY, STATE, ZIP BENICIA CA 94510

TELEPHONE NO: \_\_\_\_\_

AREA CODE (925) 372-8000

FAX NO: \_\_\_\_\_

AREA CODE (925) 372-8001

CONTRACTOR LICENSE NO. BS1187

1. Bidder agrees, if this bid is accepted, to enter into a contract with the Department, in the form included in the Standard Specifications, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.

For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days shown on the *Notice to Bidders*.

For a cost plus time based bid on a contract without a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.

For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the non-plant establishment work within the number of working days bid for non-plant establishment work.

2. For a lump sum based bid, Bidder submits this bid with a total price in the total bid space provided on the Bid Item List. For a unit price or cost plus time based bid, Bidder submits this bid with a unit price and the item total (the product of the unit price and the quantity) for each item and a total price (the sum of the item totals) in the spaces provided on the attached Bid Item List. For a unit price with additive item based bid, Bidder submits this bid with a unit price and an item total for each item and a total base bid (the sum of the item totals) and the additive items in the spaces provided on the attached Bid Item List. Additionally, for a cost plus time based bid, Bidder submits this bid with working days bid for non-plant establishment work, total bid for time, and total bid for bid comparison in the spaces provided on the Bid Item List. Bidder agrees:

- 2.1. If a discrepancy between the unit price and the item total exists, the unit price prevails except:

2.1.1. If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.

2.1.2. If a decimal error is apparent in the product of the unit price and the quantity, the Department will use either the unit price or item total based on the closest by percentage to the unit price or item total in the Department's Final Estimate.

- 2.2. If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.
- 2.3. Bids on lump sum items are item totals. If a unit price for a lump sum item is entered and it differs from the item total, the item total prevails.
- 2.4. Entries are to be expressed in dollars or decimal fractions of a dollar. Symbols such as commas and dollar signs are ignored and have no significance in establishing unit price or item total.
- 2.5. Unit prices and item totals are interpreted by the number of digits and decimal placement. Do not round item totals or the total bid.

Contract No. 04-3A8704

03/05/2014 18:06

Received

Mar 5 2014 05:02pm

(FAX)

P.002/006

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-06-0102.2 (REV 3/2011)

Bidder Name: GOLDEN STATE BRIDGE, INC

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) 227-8282 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
HARRIS REGAN LIVERMORE, CA.	98	92%	REBAR
	99	100%	
	133	25%	
	134	15.5%	
<del>DIETZ AGGREGATE DR ENTERPRISE, INC FAIRVIEW, OREGON</del>	36	100%	TREATED wood waste Remove mBGR <span style="border: 1px solid black; padding: 2px;">Listed at bid time</span>
	40	100%	
PC&N CONSTRUCTION, INC BYRON, CA	122	100%	<span style="border: 1px solid black; padding: 2px;">GR Delineator object marker</span> MIDWEST Guard Rail TRANS RAILING END CAP ALT. Terminal System CRASH CUSTION (SCL-10064)
	125	100%	
	126	100%	
	127	100%	
	128	100%	
	129	100%	
<span style="border: 1px solid black; padding: 2px;">Alternative Flared Terminal System</span> →	<span style="border: 1px solid black; padding: 2px;">Items 119 and 120 not listed.</span>		<span style="border: 1px solid black; padding: 2px;">Alternative Flared Terminal System not listed at bid time.</span>

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03/05/2014 18:06

Received

Mar 5 2014 05:02pm

(FAX)

P.004/006

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
SUBCONTRACTOR LIST  
DES-05-0102.2 (REV 3/011)

Bidder Name: GOLDEN STATE BRIDGE, INC

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 Cost 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) 227-8262 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
<del>WABO</del> SELBY'S SOIL EROSION CONTROL, INC NEWCASTLE, CA	23	100%	EROSION CONTROL Temp & Permanent
	27	100%	
	28	100%	
	33	100%	
	70	100%	
	71	100%	
	72	100%	
	73	100%	
	74	100%	
	76	100%	
77	100%		
78	100%		
WABO LANDSCAPE & CONSTRUCTION HERCULES, CA	69	100%	PLANT EST. SOIL AMENDMENT PLANT (Group 1EM) WOOD MULCH Foliage Protector
	152	100%	
	153	100%	
	154	100%	
	155	100%	
	156	100%	
	157	100%	
	159	100%	
167	4.1%		

Rolled Erosion Control Product (blanket)

Rolled Erosion Control Product (blanket) not listed

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0-10-14 10:25 8249

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
CALTRANS BIDDER - DBE - COMMITMENT  
DES OE-0192.10C (NEW 06/2012)

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO. 04-3A8704

BID AMOUNT: \$ 12,595,270.30

BID OPENING DATE 2/19/2014

BIDDER'S NAME: GOLDEN STATE BRIDGE, INC. more than .5% of total bid value

DBE GOAL FROM CONTRACT, %: 7%

DBE PRIME CONTRACTOR CERTIFICATION<sup>1</sup>: n/a

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE <sup>3</sup>
16, 17, 18, 19, 21, 22	WATER QUALITY & SWPPP WORK	*	BIOMAAS, INC 333 VALENCIA ST SUITE 321, SF CA 94103 4152538077 #36242 *CONSULTANT	\$118300.00
	<span style="border: 1px solid black; padding: 2px;">Not listed on subcontractor form</span>			

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

- DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
- If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
- See section 2.1.12 of the specifications in determining the credit allowed for DBE firms.

Submit to:

MSC 43  
OFFICE ENGINEER  
DEPARTMENT OF TRANSPORTATION  
1727 30TH STREET  
SACRAMENTO, CA 95816-7005

Total Claimed Participation \$ \_\_\_\_\_ %

*David Ricciello*  
Signature of Bidder  
315114  
Date 2/19/2014 925 372-8000 (Area Code) Tel. No.  
DAVID Ricciello  
Person to Contact (Please Type or Print)

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