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— TRIAL LAWYERS —

Robert J. Taylor, Jr. (1971-2015)

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July 9, 2024

Via Email

Juan Loera
Contract Awards Branch Chief
Division of Engineering Services
DEPARTMENT OF TRANSPORTATION
juan.loera@dot.ca.gov

Re: Contract No. 06-0W90U4 - Project ID 0623000128
Yarbs Grading and Paving, Inc.

Dear Mr. Loera:

I am counsel for Yarbs Grading and Paving, Inc. (“Yarbs Grading”), which as I understand was the low bidder on the above contract. With that said, I am in receipt of Ms. Perez-Hollins’ correspondence of July 8, 2024, finding the bid of Yarbs Grading to be non-responsive on account of less than 30% of the bid amount being self-performed. As I further understand it, the intent of Caltrans is to award the contract to the next in order responsive bid submitted by a responsible contractor. With that in mind, please accept this Yarbs Grading’s protest of the finding that its bid is not responsive and of Caltrans’s stated intent to award the contract to another bidder.

The issue appears to be with bid item nos. 82, 84, 85, 86 and 123, and this is for the provision of aggregate base and hot mix asphalt Women Truck Brokers, Inc. dba WTB, Inc. (“WTB”); surveying services (A&M); and testing services (Trinity Engineering Laboratories. The Subcontractor Listing, submitted after bid opening, these three entities as providing the materials/services for the above bid items, and so Caltrans presumably, and understandably, understood these materials/services to be provided by subcontractors. These materials/services are, in fact, not being provided/performed by a subcontractor as that term is used by the Subletting and Subcontracting Fair Practices Act, and once these bid amounts are changed from

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a subcontractor to a prime contractor allocation, significantly more than the required minimum amount of self-performed is met.

In completing the Subcontractor List, Public Contract Code section 4104 required Yarbs Grading to identify each subcontractor whose value of work exceeded one-half of one percent of the total bid. Yarbs Grading complied with Section 4104, but it went further, identifying each entity providing services and/or materials to the project, and not just though required to be listed per Section 4104. In order to differentiate those entities not subject to Section 4141, that is, not subcontractors, rather than providing a contractor license inserted a "NA", and this is true for each of WTB, A&M and Trinity Engineering Laboratories. Yarbs Grading went further than what was required by Section 4101, and yes it has perhaps caused some confusion, but it did this in the desire to make full disclosure of all entities providing services and/or materials to the project.

Regarding Women Truck Brokers, Inc. dba WTB, Inc. ("WTB"), and this is far and away the biggest of the three entities in issue, it is a certified DBE contractor, and it is a supplier of construction materials including for this project, aggregate base rock, hot mix asphalt and rubberized hot mix asphalt. The price

WTB is supplying material to the jobsite for a delivered price. It is a supplier, and not a licensed subcontractor, and it is not subject to the listing requirements of Public Contract Code section 4101. Again, it was listed only in the interest of full disclosure.

In order to determine the amount of Yarbs Grading's bid that is being self-performed, bid items 82, 84, 85, 86 and 123 should be allocated to the prime contractor, and once that is done, Yarbs Grading exceeds the minimum threshold by a significant amount.

Based on the foregoing, Caltrans should find the bid of Yarbs Grading to be responsive, and it would be awarded the contract for this project.

Thank you for your consideration, and if you need any further information, please contact me.

Very truly yours,



Charles L. Doerksen

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Certification

I, Troy Yarbrough, declare as follows:

I am the Chief Executive Officer and President of Yarbs Grading and Paving, Inc. (“Yarbs Grading”).

I have read the above correspondence from counsel for Yarbs Grading, and it accurately sets out the relevant facts regarding this bid protest.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 9, 2024, at Fowler, California.

YARBS GRADING AND PAVING, INC.



Troy Yarbrough, Chief Executive Office and President