



**COLLINSWORTH, SPECHT,
CALKINS & GIAMPAOLI, LLP**

Mark T. Collinsworth*
Jason A. Specht*
Scott D. Calkins*
Matthew D. Giampaoli*
James M. Ganion*+
Anthony P. Gaeta*
Jennifer E. Mullen
Timothy A. Gravit*
Suzette S. Doody
Robert G. Bernstein*
Albert P. Blake, Jr.*
Jeremy Snider*
Maurine P. Travis*
Ronald A. Chavez*
Stephen W. Poirier*
Chandra L. Moore*
Peter M. Geckeler*
K.J. Cabodi*^

* Admitted in California
 Admitted in Arizona
+ Admitted in Washington
^ Of Counsel

9665 Chesapeake Dr., Suite 305
San Diego, CA 92123
Sender's Email:
mcollinsworth@cslawoffices.com

September 23, 2024

Via U.S. Certified Mail/Return Receipt Requested

Caltrans: California Department of Transportation
Attn: Office Engineer
1727 30th Street, MS - 43
Sacramento, California 95816-8041

Juan Loera
Department of Transportation
1727 30th Street MS 43, Sacramento, CA 95816
Juan.Loera@dot.ca.gov

Re: Notice of Appeal

Contract No.: 08-1C07U4
Bid Opening: September 11, 2024

To The Office Engineer and Mr. Loera:

Pursuant to Section 3-1.04 – Contract Award of the 2023 Standard Specifications, please accept this letter as R.J. Noble Co.'s ("RJNC") formal protest to the Department of Transportation's

Caltrans: California Department of Transportation

Attn: Office Engineer

Re: Notice of Appeal

September 23, 2024

Page 2

("Caltrans") decision appearing to award the bid for Contract No. 08-1C07U4 ("the Project") to Griffith Company ("Griffith"). As set forth herein, Griffith's bid, as well as the bid of the second low bidder, Granite Construction ("Granite"), are non-responsive. RJNC hereby requests Caltrans disqualify Griffith's and Granite's bid and determine RJNC as the lowest, responsive bidder. In the alternative, RJNC requests Caltrans discard all bids and re-bid the Project.

On September 11, 2024, the bid opening for the Project took place. The three lowest bidders as identified by Caltrans were (1) Griffith, (2) Granite, and (3) RJNC. Consistent with Section 3-1.04 of the 2023 Standard Specifications, "Contract Award and Execution," this protest letter/appeal is being submitted to the Office Engineer before the contract has been awarded.

Within the bid documents, at p.1, Caltrans specified the DBE contract goal was 22 percent. Thus, all bidders were required to meet the 22 percent DBE participation goal as a direct requirement of bid. The DBE participation goal as listed in the Notice to Bidders as a minimum requirement for this contract. It was not optional. However, Griffith's DBE commitment was only 18.19 percent. As such, Griffith's bid is non-responsive. By comparison, RJNC was able to meet the 22 percent goal, thus proving the goal was readily achievable.

Caltrans has consistently and uniformly held that allowing a bidder to meet the minimum DBE requirements after bids are opened may result in a competitive advantage over other bidders. As such, amendment of the Griffith bid would not be permitted. Allowing such gamesmanship would go against the ideals of fair bidding and stimulating competition required in the letting of public contracts. (See, e.g., Public Contract Code section 100, et. seq.) Further, Griffith acknowledges in its Bid Book it is not a DBE or Certified Small Business. Therefore, self-performance of additional work by Griffith would not alter its substandard DBE commitment.

As to Granite, a review of the post bid files posted by Caltrans shows Granite failed to submit the required DBE Submittal. Accordingly, Granite's bid must be deemed non-responsive for this reason alone.

Based on all the foregoing, RJNC requests Caltrans award the bid to RJNC as the lowest, responsive bidder. In the alternative, RJNC requests Caltrans discard all bids and re-bid the Project.

Caltrans: California Department of Transportation
Attn: Office Engineer
Re: Notice of Appeal
September 23, 2024
Page 3

Please let me know if you have any questions or wish to discuss this further.

Very truly yours,

COLLINSWORTH, SPECHT,
CALKINS & GIAMPAOLI, LLP

A handwritten signature in black ink, appearing to read 'MTC', with a long horizontal flourish extending to the right.

MARK T. COLLINSWORTH, ESQ.

MTC:jb

cc: (Via Email Only)
Austin Carver
Steve Mendoza
Jacob Breedlove
Braden Porter