

June 10, 2021

Via Email: bids@act1const.com

Don Trenholm
Tiffany Trenholm
Act 1 Construction, Inc.
444 Sixth Street
Norco, CA 92860

**SUBJECT: OC San Response to Act 1 Construction, Inc.'s Bid Protest
Project No. P1-134, South Perimeter Security and Utility Improvements at
Plant No. 1**

On June 4, 2021, the Orange County Sanitation District ("OC San") received a Bid protest ("Protest") from your firm, Act 1 Construction, Inc. ("Act 1"). OC San has reviewed the Protest, all necessary facts and written materials submitted, and hereby rejects Act 1's Protest.

In summary, Act 1 argued that the bid submitted by Tovey/Shultz Construction, Inc. ("Tovey/Shultz") was nonresponsive and should be rejected for the following reasons: 1) Tovey/Shultz failed to list a licensed surveyor, a subcontractor in excess of one-half of one percent of the total bid, and 2) Tovey/Shultz listed more than one subcontractor for the same work, one of which, Intersect Technology Institute dba ITI Cabling ("ITI Cabling"), is not certified to install the specified system. OC San has determined that those items are incorrect.

1. Public Contract Code section 4104(a)(1) requires the Bidder to list in its Bid subcontractors whose bid is in excess of one-half of one percent of the prime contractor's total bid. One half of one percent of Tovey/Shultz' bid is \$21,983.90 (\$4,396,779 x .005). Based on a bid Tovey/Shultz received, the cost for the surveying work will be \$18,340. Since the price for the surveying work is lower than one half of one percent of Tovey/Shultz' bid, the subcontractor was not required to be listed.

2. Public Contract Code section 4104(b) specifies that "The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid." Tovey/Shultz specified only one subcontractor, ITI Cabling, for the fiber optic scope of work. LEED Electric Inc. is a listed subcontractor for electrical, comm. Cabling, CCTV, Security. In addition, ITI Cabling has a C-7 license and is certified (see attached certificate).

Determination

Based on the determinations above, OC San's original determination stands, and therefore Tovey/Shultz is a responsive and responsible bidder. Accordingly, Act 1's Protest is rejected.

- Serving:
- Anaheim
 - Brea
 - Buena Park
 - Cypress
 - Fountain Valley
 - Fullerton
 - Garden Grove
 - Huntington Beach
 - Irvine
 - La Habra
 - La Palma
 - Los Alamitos
 - Newport Beach
 - Orange
 - Placentia
 - Santa Ana
 - Seal Beach
 - Stanton
 - Tustin
 - Villa Park
 - County of Orange
 - Costa Mesa Sanitary District
 - Midway City Sanitary District
 - Irvine Ranch Water District
 - Yorba Linda Water District



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OC San will proceed to recommend that the Contract be awarded to the lowest responsive and responsible bidder, Tovey/Shultz Construction, Inc., at the Board of Directors Meeting on July 28, 2021.

Zintzun, Ruth Digitally signed by Zintzun, Ruth
DN: dc=com, dc=insideocsd, ou=OCSDEndUserSupport, ou=All Users,
ou=OCSDUsers, ou=Administrative Services, ou=230 - Purchasing &
Contracts, cn=Zintzun, Ruth, email=rzintzun@ocsan.gov
Date: 2021.06.10 15:16:31 -07'00'

Ruth Zintzun
Purchasing & Contracts Manager

CMM

Attachment: ITI Cabling Certification



**FutureFLEX® Air-Blown Fiber Solution
Licensed FutureFLEX® Installer (LFI)**

ITI Cabling Inc.

L1812101

12/31/2021

Sub-License Registration Number

Valid Through

A handwritten signature in black ink, appearing to read "J. Peter Sault".

Director of Product Management



FutureFLEX
AIR-BLOWN NETWORK
SOLUTIONS

12/04/2018

Licensed Since