

## ***J.F.SHEA CONSTRUCTION, INC.***

License No. 769989 A  
P.O. Box 494519  
17400 Clear Creek Road  
Redding, California 96049-4519  
PHONE (530) 246-4292  
FAXCIMILE (530) 246-9940

DATE: May 11th, 2015

### **VIA FAX AND US MAIL**

John McMillan, Office Engineer  
State of California  
Department of Transportation  
1727 30<sup>th</sup> Street, MSC43  
Sacramento, CA 95816

**Re: J.F. Shea Construction Bid Protest  
Contract No.: 02-4G7304**

Dear Mr. McMillan:

We have reviewed the letter submitted by counsel for Myers and Sons Construction dated May 6, 2015 and provide the following response.

Myers and Sons Construction concedes that the Certified DVBE summary form submitted failed to identify all of the bid item numbers and a complete description of the work to be performed by Mallard Construction. The Certified DVBE summary form specifically requires the bidder to provide a complete and thorough description of the work to be performed by the DVBE subcontractor along with identifying the bid item number for each item of work. Footnote 2 on the Certified DVBE summary form states as follows:

If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.

Myers and Sons Construction cites a prior Caltrans determination in connection with a bid protest submitted on behalf of Papich Construction Co., Inc. This ruling pertained only to the subcontractor list form and had nothing to do with the submission of a Certified DVBE summary. Moreover, it is important to note that in the Papich Construction protest, mobilization was added by the bidder on the 24 hour submittal. Myers and Sons Construction did not list mobilization on either the subcontractor list form or the Certified DVBE summary. Myers & Sons Construction contends that the DVBE Summary is only required to be consistent with the names and items of work in the subcontractor list. As stated above, the Certified DVBE summary states that the bidder must list the bid item numbers and provide a detailed description of the labor and materials to be supplied by the DVBE. Myers and Sons Construction failed to properly complete the DVBE summary and therefore, the bid is nonresponsive. By failing to properly complete the Certified DVBE summary form, it is not possible to determine how the amount of \$57,605.00 for Mallard Construction was calculated. As a result, there is an inconsistency between the two forms—an inconsistency created by Myers and Sons' failure to properly complete these forms.

John McMillan  
May 8, 2015  
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Myers and Sons Construction created an inconsistency in the information submitted in the subcontractor list and Certified DVBE summary by including the dollar amount in the DVBE summary for mobilization when that item was not included in either of these forms. If Myers and Sons Construction intended to include item 45 mobilization as a portion of Mallard Construction's subcontract amount, at the very least, this item should have been included in the Certified DVBE Summary.

The bid submitted on behalf of Myers and Sons Construction was nonresponsive as a result of Myers and Sons Construction's failure to accurately and completely provide the description of work and list of items to be performed by Mallard Construction. When the amount of \$12,000 for mobilization is deducted from Mallard Construction's total subcontract amount, Myers and Sons Construction's DVBE participation percentage is reduced and falls below the contract goal of 3%.

For each of the reasons set forth above, J.F. Shea Construction respectfully request that Caltrans award the project to J.F. Shea Construction as the lowest responsive bidder.

If you should have any questions please do not hesitate to call, (530) 246-4292

Sincerely,



**J.F.SHEA CONSTRUCTION, INC.**

Brock Kernaghan  
Estimator / Project Manager

Cc: Mrs. Stacy Dutra – Construction Secretary / Project file

# Second Bidder

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
CERTIFIED DVBE SUMMARY 04-23-15 109:07 IN  
DES-06-01(2.5) (REV 3/2008)

DISTRICT-COUNTY-ROUTE: 02 - Shasta - 5, 44, 299  
CONTRACT NO.: 02-467304  
TOTAL BID: \$1,690,326.<sup>00</sup>  
BID OPENING DATE: 4-22-15  
BIDDER'S NAME: Myers and Sons Construction, LP  
DVBE PRIME CONTRACTOR CERTIFICATION ' \_\_\_\_\_

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
<b>1, 3, 14, 15, 40-43</b>	LCP, Traffic Control for Mallard Const. Work, Remove/Place Striping and Markers	Not filled out completely or correctly	Mallard Construction Inc. 714-785-5394 #1748928	<b>\$57,605.<sup>00</sup></b>
44	Maintaining Existing Traffic Mgmt. Systems		Lec Contractors and Consultants, Inc. 805-428-2505 #1555980	\$1,900. <sup>00</sup>
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.				<b>Total Claimed Participation</b> \$ <u>59,505.<sup>00</sup></u> <u>3.52</u> %

Inconsistent with the items listed

- DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).
- If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of items to be performed or supplied by DVBE.

Footnote

Submit to:

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

Signature of Bidder: \_\_\_\_\_ Date: 4/22/15  
 (916) 283-9950  
 (Area Code) Telephone Number  
 Joe Gehring  
 Contact Person (Type or Print)

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
 Contract No.: 02-4G7304 Project ID: 0214000053  
 Bidder Name: Myers and Sons Construction, LP Bidder ID: VC0000106329  
 DES-OE-0102.2B(REV 5/2014)

Bidding Firm: Myers and Sons Construction, LP

List this sub? Yes

1) Business Name Mallard Construction Inc.  
 Location City Orange State CA  
 California Contractor License Number 826607  
 CA Department of Industrial Relations' Registration Number 1000007027  
 Portion of Work Subcontracted:

Item #	Description
1 100	
3 6	Traffic Control for Mallard Construction work only
14 100	
15 100	
40 100	

List this sub? Yes

2) Business Name Mallard Construction Inc.  
 Location City Orange State CA  
 California Contractor License Number 826607  
 CA Department of Industrial Relations' Registration Number 1000007027  
 Portion of Work Subcontracted:

Item #	Description
41 100	
42 100	
43 100	

List this sub? Yes

3) Business Name Darren Taylor Construction, Inc.  
 Location City Anderson State CA  
 California Contractor License Number 903262  
 CA Department of Industrial Relations' Registration Number 1000005101  
 Portion of Work Subcontracted:

Item #	Description
3 7	Traffic Control for Darren Taylor work only
17 75	Remove Ashpalt Concrete Surfacing
19 88	Cold Plane Asphalt Concrete Pavement
27 100	
28 100	

# J.F.SHEA CONSTRUCTION, INC.

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FAX: 530) 246-9940

## FAX COVER SHEET

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**TO:** Mr. John McMillan, Office Engineer

**FAX NO.** (916) 227-6282

**FROM:** Brock Kernaghan

**DATE:** May 11, 2015

**SUBJECT:** 02-4G7304

**5 Pages, including Cover Page**

**MESSAGE:**

Sincerely,



Brock Kernaghan

Estimator/Project manager

**J.F.Shea Construction Inc.**