www.slurry.com

December 18, 2015

John C. McMillan, Deputy Division Chief
California Department of Transportation
Division of Engineering Services
Office Engineer MS 43
1727 30th St.
Sacramento, CA 95816
Fax: 916-227-6282

Contract:	06-0T5904
Re:	Bid Protest of Low Bidder
Bid Opening:	December 3, 2015 2:00 P.M.

Dear Mr. McMillan,

Please consider this letter from VSS International a formal protest of the bid submitted by the first monetary low bidder, Northwest Paving Inc. (Northwest Paving). Northwest Paving's Certified DVBE Summary is inconsistent with their Subcontractor list, and fails to comply with subcontractor listing laws and DVBE Commitment form instructions.

The Certified DVBE Summary states, "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 bid."

Northwest Paving listed Wells Sweeping on its Certified DVBE Summary (**Exhibit A**) to furnish equipment and operator services involving sweeping of screenings and sand, but failed to list Wells Sweeping on the Subcontractor List form (**Exhibit B**).

Caltrans requirements state that a company that is providing equipment rental with operator services to be listed on the Subcontractor list (**Exhibit C**). Wells Sweeping was not listed on the Subcontractor list. Northwest Paving's failure to list Wells Sweeping on the Subcontractor list is a violation of the Subletting and Subcontracting Fair Practices Act, and should render Northwest Paving's bid non-responsive. Caltrans rejection of Northwest Paving's bid would be consistent with past practice (**Exhibit D**).

Thank you for your time and consideration of this bid protest. Should you have any questions please do not hesitate to call.

Signed,

Michael A. Harrison
Estimator
VSS International

12-07-15A11:07 RCVD

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Low Bidder

CERTIFIED DVBE SUMMARY

DES-OE-0102.5 (REV 3/2008)

DISTRICT-COUNTY-ROUTE: 06 - Tul - 137,190

CONTRACT NO.: 06-0T5904

TOTAL BID: 1,934,911.00

BID OPENING DATE: 12/3/15

BIDDER'S NAME: Northwest Paving, Inc.

DVBE PRIME CONTRACTOR CERTIFICATION [1]

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE [2]	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	$ Amount
1, 3, 7-10, 16-22	Lead plan, Traffic Control, Stripe Removal, Striping, Markers		Safety Striping Service, Inc. (559) 651-1022 #14354	162,245.50
11, 15	Sweep Sand & Screenings		Wells Sweeping (916) 668-0104 #0000333	68,120.00
2, 3	Construction Sign, Rumble Strips		Titan DVBE (530) 246-7836 #1249460	10,650.00
			Total Claimed Participation	$ 241,015.50 12.45 %

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.

1. 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).

2. 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.

James Heller 12/4/15
Signature of Bidder Date

(530) 246-4388
(Area Code) Telephone Number

James Heller
Contact Person (Type or Print)

Submit to:

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

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 654-6410, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

("EXHIBIT A")

NORTHWEST PAVING, INC

8115 Secluded Valley Drive
Redding, CA 96001
(530)246-4388
(530)246-4109 fax

Contract 06-0T5904

12/4/2015

DVBE Commitment

Titan DVBE #1249460
P.O. Box 492336
Redding, CA 96049

Construction Area Signs - 1 LS @ $ 8050.00
Rubble Strip 2 month @ 1300 $ 2600.00
$10,650.00

Wells Sweeping - DVBE #0000333
5425 Marmith Ave
Sacramento, CA 95841

Sweeper - 296 hours @ 155.00 = $ 45880.00
Overtime - 48 hours @ 180.00 = $ 8640.00
Travel - 60 hours @ 135.00 = $ 8100.00
Per Diem - 44 days @ 125.00 = $ 5500.00
$68,120.00

Safety Striping Service, Inc. #14354
PO BOX 1020
Goshen, CA 93227

Striping - 1 LS @ 162245.50 = $162.245.50
$162,245.50

Total Commitment = $241,015.50

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 06-0T5904 Project ID: 0615000155
Bidder Name: Northwest Paving Bidder ID: VC0000015345
DES-OE-0102.2C (REV 03/2015)

Bidding Firm: Northwest Paving

List this sub? Yes

1) Business Name SAFETY STRIPING SERVICE, INC.
Location City GOSHEN State CA
California Contractor License Number 308669
Public Works Contractor Registration Number 1000001574
Portion of Work Subcontracted:

Item	%	Description
1	50	LEAD PLAN
3	8.4	TRAFFIC CONTROL PARTIAL
7	100	MARKING REMOVAL
8	100	STRIPE REMOVAL
9	100	STRIPE REMOVAL

List this sub? Yes

2) Business Name SAFETY STRIPING SERVICE, INC.
Location City GOSHEN State CA
California Contractor License Number 308669
Public Works Contractor Registration Number 1000001574
Portion of Work Subcontracted:

Item	%	Description
10	100	REMOVE MARKINGS
16	100	THERMO STRIPE
17	100	THERMO STRIPE
18	100	THERMO MARKINGS
19	100	THERMO STRIPE

List this sub? Yes

3) Business Name SAFETY STRIPING SERVICE, INC.
Location City GOSHEN State CA
California Contractor License Number 308669
Public Works Contractor Registration Number 1000001574
Portion of Work Subcontracted:

Item	%	Description
20	100	THERMO STRIPE
21	100	PAINT STRIPE
22	100	PAVEMENT MARKERS

("EXHIBIT B")

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 06-0T5904 Project ID: 0615000155
Bidder Name: Northwest Paving Bidder ID: VC0000015345
DES-OE-0102.2C (REV 03/2015)

Bidding Firm: Northwest Paving

List this sub? Yes

4) Business Name TITAN DVBE
Location City REDDING State CA
California Contractor License Number 913725
Public Works Contractor Registration Number 1000006513
Portion of Work Subcontracted:

Item	%	Description
2	50	CONSTRUCTION AREA SIGNS
3	2.1	TRAFFIC CONTROL

List this sub? Yes

5) Business Name GLOBAL ROAD SEALING INC.
Location City GARDEN GROVE State CA
California Contractor License Number 757584
Public Works Contractor Registration Number 1000007714
Portion of Work Subcontracted:

Item	%	Description
13	100	CRACK TREATMENT

SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT -- LISTING

Under Public Contract Code section 4104, a subcontractor who will perform work or labor or render service to the prime contractor or a subcontractor licensed by the State of California who fabricates and installs a portion of the work, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars ($10,000), whichever is greater must be listed.

Pursuant to Business and Professions Code section 7026, "Contractor," for the purposes of this chapter, is synonymous with "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. "Contractor" includes subcontractor and specialty contractor. "Roadway" includes, but is not limited to, public or city streets, highways, or any public conveyance.

Pursuant to Business and Professions Code section 7052, This chapter does not apply to any person who only furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of the contractor.

Caltrans interprets these sections to mean:

1) A company that is providing equipment rental service is not required to be listed as a subcontractor
2) A company that is providing equipment rental with operator services is required to be listed

("EXHIBIT C")

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN JR., GOVERNOR

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P.O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought.
Help save water!

November 21, 2014

Facsimile: (530) 273-4396

Eric Stannard, Director of Public Relations
A. Teichert & Sons, Inc. dba Teichert Construction
4401 Duluth Avenue
Rocklin , CA 95765

03-4F3404
03-Pla,Nev-80-69.3/69.8, 0.0/R2.3
B.O. 10/15/14

Dear Mr. Stannard:

The Department of Transportation (Caltrans) received a bid from A. Teichert & Sons, Inc. dba Teichert Construction (Teichert) for contract 03-4F3404 on October 15, 2014. By this letter, Caltrans notifies Teichert that its bid is nonresponsive because the Disadvantaged Business Enterprise (DBE) form submitted is inconsistent with the Subcontractor List form in violation of the bidding instructions.

The DBE Commitment Form expressly states that "Names of the First Tier DBE Subcontractors and their respective item(s) of work listed must be consistent, where applicable, with the names and items of work in the Subcontractor List." Teichert listed the subcontractor ABSL on its DBE Commitment form to perform Bid Item 16 (Roadway Excavation), but failed to list ABSL on the Subcontractor List form. ABSL is listed for performing work in the amount of $16,300 which, on a bid of $3,161,385, meets the listing threshold of ½ of 1 percent or $10,000.

Caltrans reviewed all of the documents submitted by Teichert, and based on the description of work provided in the quote submitted by ABSL, determined that ABSL provides the equipment, as well as the operator to perform the scope of work. In addition, the work being performed by ABSL requires a contractor's license. It is therefore, Caltrans' determination that ABSL is a subcontractor performing more than 1/2 of 1 percent of the work and not merely an equipment supplier and must be listed on the subcontractor list form.

Based on the above findings, Caltrans will proceed to award this contract to the lowest responsive and responsible bidder provided that all requirements have been met.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

("EXHIBIT D")

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
P.O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought.
Help save water!

November 20, 2015

Facsimile: (541) 884-3567

Jamie Jackson
Rocky Mountain Construction
4815 Tingley Lane, #A
Klamath Falls, OR 97602

02-4E8004
02-Sis-161-2.7/4.5
B.O. 11/4/15

Dear Mr. Jackson:

The Department of Transportation (Caltrans) received a bid submitted by Rocky Mountain Construction (Rocky Mountain) for the above referenced contract on November 4, 2015. By this letter, Caltrans notifies Rocky Mountain that its bid is nonresponsive because of an inconsistent Certified DVBE Summary (DVBE) and Subcontractor List form.

The instructions on the Certified DVBE Summary states: "*Names of the First Tier DVBE subcontractors and their items of work must be consistent with the Subcontractor List.*"

The Contract Revised Standard Specifications 2-1.10, Subcontractor List, which states in part: *List each subcontractor to perform 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.).*

On the DVBE Commitment form, Rocky Mountain identified T and S DVBE, Inc. (T and S) to perform bid items 2, Construction Area Signs and 3, Traffic Control, but failed to list T and S on the Subcontractor's List form as performing work described on the DVBE summary. Based on the description of work, T and S is performing subcontracted work, and this work falls within the subcontractor listing requirements; therefore, should have been listed on the Subcontractor's List form.

Based on the above, Caltrans finds Rocky Mountain's bid nonresponsive. Caltrans will proceed to award the contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Manager, at (916) 227-6228.

Sincerely,

("EXHIBIT D")

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services