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March 25, 2013

VIA FACSIMILE (916) 227-6282

John C. McMillan
Office of the Engineer, MS 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816
(916) 227-6280
(916) 227-6282 fax

RE: Contract No. 03-1F6204 Hwy 49 near North San Juan
Bids Opened: January 29, 2013
Bid Protest

Dear Mr. McMillan:

Knife River Construction (KRC) has received your letter dated March 22, 2013. In your letter you state that the Office of Business and Economic Opportunity, Contract Evaluation Unit has determined that Dependable Petroleum Products (DPP) is an extra participant in the transaction of purchasing asphalt and therefore that portion cannot be used towards the DVBE goal amount submitted by KRC. KRC disagrees with this finding.

For this project, KRC is the manufacturer of the asphalt concrete (HMA). We have two choices for getting the required liquid asphalt delivered to its HMA mixing plant.

The first choice is to purchase liquid asphalt from an asphalt supplier such as Paramount or Valero and then contract with a tanker trucking company to have it delivered to the KRC mixing plant. In this case, KRC must work with two separate agreements, both with limited liabilities for the product being delivered.

Our second choice is to pay a little more to contract with a company like DPP who will purchase and deliver the liquid asphalt to the KRC mixing plant. In this case, KRC only has to work with one agreement and DPP has full responsibility for the product delivered.

This scenario is very similar to a homeowner building or remodeling a house. The homeowner can choose to subcontract out all the trades individually and take responsibility for the management of the subcontractors, or the homeowner can hire a general contractor (usually at more expense) who will manage and take responsibility for all the subcontractors.



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KRC does not have to use DPP for this project just like the homeowner does not have to use a general contractor to build a house, but sometimes it makes business sense to do so. DPP is not an "extra participant" in this transaction. DPP is performing a valid and valued service that KRC is willing to pay for.

Dependable Petroleum Products (DPP) was a certified DVBE at the time of bid and to the best knowledge of KRC, DPP meets all the criteria required in Section 999 of the Military and Veterans Code to perform a "commercially useful function" in the supply and transportation of liquid asphalt for this project at the time of bid.

KRC hereby requests that the Department of Transportation reverse its decision regarding the award of this project or that at the very least that it grants KRC a hearing on this matter prior to any award.

If you have any questions, please do not hesitate to call Andy Lanier at (530) 891-6555.

Sincerely,

Knife River Construction
Richard A. Lanier
Estimating manager