

AFSAR

LAW GROUP

78-000 Fred Waring, Suite 203
Palm Desert, CA 92211
Ph: 760.345.3110
Fax: 760.345.3220
www.afsarlaw.com

April 9, 2013

VIA FACSIMILE AND U.S. MAIL

State of California Department of Transportation/Caltrans
Office Engineer
1727 30th Street
Sacramento, CA 95816

Re: Bid Protest on Contract Number 03-3F0304

To Whom It May Concern:

This office represents the legal interests of Desert Concepts Construction, Inc. This correspondence is written as a formal Bid Protest for Contract Number 03-3F0304. My client submits this bid protest because of mathematical errors in the statement of DVBE compliance submitted by Sierra Nevada which render it inaccurate and overstated. When calculated properly, the Sierra Nevada bid fails to meet the DVBE Contract goal and their bid is non-responsive.

In reviewing the bid submitted by Sierra Nevada, my client discovered inconsistencies with regard to the total claimed participation as delineated on the Sierra Nevada Certified DVBE Summary. More specifically, Sierra Nevada lists Black Diamond Asphalt as the DVBE for supply liquid asphalt allocate \$84,914.00 for said work on the DBE Commitment worksheet. It is assumed this figure is calculated as 60% of the total bid. However, in reviewing the quote provided by Black Diamond Asphalt, the bid provides for 200 tons at \$690 per ton for a total bid price of \$138,000. When this amount is cut to 60% its value as required when materials or supplies are obtained from a DVBE manufacturer, the total claimed value should be \$82,800, not \$84,914 as listed.

After obtaining the correct value for bid items 24 and 25, the proper value of \$82,800 should replace the incorrect figure on the DBE Commitment form. After recalculating utilizing the correct Dollar Amount DBE¹, the total claimed participation falls to \$93,904 or just 7.35%. With 7.35% Total Claimed Participation, Sierra Nevada's bid has failed to meet the DVBE Contract goal and is therefore non-responsive.

It is well settled California law that a bid which deviates from bid requirements must be rejected as nonresponsive. California utilizes strict compliance to eliminate favoritism,

¹ Figures calculated based on the Corrected DBE Dollar Amount provided by Sierra Nevada.

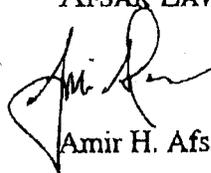
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fraud, corruption, and the misuse of public funds. Based on the foregoing, the bid of Sierra Nevada should be deemed non-responsive and rejected.

We appreciate your time in reviewing the bid referenced herein. If we can provide further assistance with regard to this project, please contact this office or Desert Concepts Construction, Inc. at your convenience.

Very truly yours,

AFSAR LAW GROUP, A.P.C.



Amir H. Afsar

cc: Client
AHA/jbl
L040513.SierraNevada



78-000 Fred Waring, Suite 203
Palm Desert, California 92211
Telephone (760) 345-3110 Facsimile (760) 345-3220

April 9, 2013

Total Number of Pages 3 (Including This Cover Letter)

Please deliver the attached pages to:

Company: State of California Department of Transportation/Caltrans
Office Engineer

Recipient's Fax No.: (916) 227-6282

From: Amir H. Afsar, Esq.

Transmitted From: (760) 345-3220

Re: Bid Protest on Contract Number 03-3F0304

Please see the attached correspondence.

If you have any additional questions, please don't hesitate to contact this office.

Thank you,

Original Sent By U.S. Mail: Yes [] No

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