

**Emmett's Excavation, Inc.**

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April 9, 2014

John C. McMillan
Deputy Division Chief
Office Engineer
Division of Engineering Services
State of California Department of Transportation (Caltrans)
1727 30th Street, Bidder Exchange, MS 43
Sacramento, CA 95816-8041

Subject: Contract 06-487504
Bid Opened: March 26, 2014
Bid Protest of Agee Construction Corporation

Dear Mr. McMillan,

Emmett's Excavation, Inc., hereby protests the award of the above referenced project to Agee Construction Corporation (Agee) due to an error found in their bid documents. After review of Agee's DBE commitment form it was found that WTB Inc., ABSL Construction, Dragon Materials Transport, Inc., and Spirit Road Oils were listed for services to be subcontracted or materials to be provided.

The DBE commitment form states in part "... Names of first tier DBE subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the Subcontractor List". The Subcontractor List form states in part, "The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater". Agee failed to list WTB Inc., ABSL Construction, Dragon Materials Transport, Inc., and Spirit Road Oils on its Subcontractor List. The omission of WTB Inc., ABSL Construction, Dragon Materials Transport, Inc., and Spirit Road Oils is a violation of the subcontractors listing laws as well as the Subcontractor List and DBE form instructions.

Based on the above, Caltrans needs to find Agee's bid non-responsive and award to the next lowest responsive and responsible bidder.

Thank you.

A handwritten signature in black ink, appearing to read "David Walsh".

David Walsh
General Manager