



# Fleming Environmental Incorporated

1372 E. Valencia Dr. \* Fullerton, CA 92821  
(714) 871-2800 \* Fax (714) 871-2801  
License #746017

June 5, 2015

Via Fax 916-227-6282

State of California Department of Transportation  
Division of Engineering Service, Office Engineer  
Attn: John C. McMillan  
1727 30th Street, MS-43  
P.O. Box 168041  
Sacramento, CA 95816-8041

Re: The Paradise Valley Maintenance Station 6690 La Contenta Road,  
Contact 08-0R9604 (Rev. 1)

Dear Mulissa,

We are in receipt of your letter dated June 4, 2015 rejecting our bid for the Caltrans project 08-0R9604. Fleming respectfully request that The Office of Engineer (Caltrans) extends our bid while we try to resolve the DVBE requirement issue for this project.

Fleming listed Marne Construction as one of our subcontractors and they were listed as our DVBE fulfilling this requirement. Please find attached their quotation and Disabled Veteran Business Enterprise Declarations. By submitting our bid and listing Marne Construction with a subcontract amount of \$231,773.69, Fleming has met and exceeded the 3% DVBE requirement goal. In fact, Fleming's total claimed participation would be 18%, please see the attached page 13 of the online bid form certifying our total claimed participation.

Fleming did in fact make one small oversight by not completing Certified DVBE Summary page on the online bid submittal. This was our second bid using this format, the first bid using this was the day before on bid 07-1W5104. We interpreted this section as a section to be completed by a General Contractor certifying themselves as a DVBE. As you know, we have utilized Marne Construction as our DVBE and we listed them as a subcontractor. By doing so, our bid and the merits of our bid do not change. The percentage in question is a simple math equation with the figures already in place in our bid.

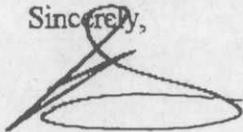
Fleming is a certified small business contractor who has experience working with Caltrans and has constructed similar projects in the past. Fleming is currently working on a project with Caltrans (08-0R9704) that mirrors this project. It would be a shame to take away this opportunity for a small business subcontractor and a DVBE subcontractor who substantially complied with the bid documents for one small irregularity and misunderstanding of the new bid format Caltrans has implemented.

June 5, 2015

Based on the aforementioned information and the attachments provided, Fleming respectfully request that Caltrans re-evaluate our bid and determine us responsive.

Should you need any additional information or require additional information, please do not hesitate to contact me at 714-871-2800.

Sincerely,



Terry L. Fleming Jr.  
President

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, Jr., Governor

**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



*Settles drought,  
Help save water!*

June 4, 2015

Facsimile: (714) 871-2801

Terry L. Fleming, Jr., President  
Fleming Environmental, Inc.  
1372 E Valencia Drive  
Fullerton, CA 92831

08-OR9604  
08-SBd-5724  
B.O. 05/20/2015

Dear Mr. Fleming:

The Department of Transportation (Caltrans) received a bid submitted by Fleming Environmental, Inc. (Fleming) for Contract No. 08-OR9604 on May 02, 2015. By this letter, Caltrans notifies Fleming that its bid is nonresponsive since Fleming did not comply with Contract Special Provision, Section 2-1.15B(2) Disabled Veterans Business Enterprises (DVBE), which states in part:

*"Take necessary and reasonable steps to ensure that DVBEs have opportunity to participate in the Contract. Complete and submit the Certified DVBE Summary form. List all DVBE participation on this form."*

Fleming failed to complete and submit the Certified DVBE Summary form as required.

Based on the above, Caltrans finds your bid is 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 pm, two business days prior to the expiration of your bid.

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

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 08-0R9604 Project ID: 0812000223

Bidder Name: Fleming Environmental Inc.

Bidder ID: VC0000008346

CERTIFIED DVBE SUMMARY

DES-OE-102.5 (REV 3/2008)

DISTRICT-COUNTY-ROUTE: 08-SBd-5724

TOTAL BID: 1,268,742.00

BID OPENING DATE: 05-20-15

DVBE PRIME CONTRACTOR CERTIFICATION:

Submit to:

MSC 43  
Office Engineer  
Department of Transportation  
1727 30th Street  
Sacramento, CA 95816-7005

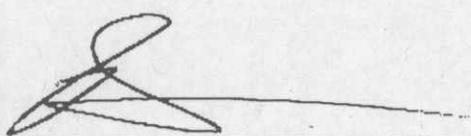
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractors List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.

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.

Total Claimed Participation \$ 231,773.69  
\$ 18.00

Contact Person: Terry L. Fleming, Jr.  
(Type or Print)

(Area Code) Telephone Number: (714) 871-2800



6-5-15

Signature of Bidder

Date

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 08-OR9604 Project ID: 0812000223

Bidder Name: Fleming Environmental Inc.

Bidder ID: VC0000008346

CERTIFIED DVBE SUMMARY

DES-OE-102.5 (REV 3/2008)

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

Concrete  
FOR CALTRANS USE ONLY

DVBE Name: Marne Construction  
DVBE Telephone Number: 714-935-0995  
DVBE Certification Number: 8074  
\$Amount: 231,773.69

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:  
DVBE Telephone Number:  
DVBE Certification Number:  
\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:  
DVBE Telephone Number:  
DVBE Certification Number:  
\$Amount:

Bid Item Number:

Description of Work to Be Subcontracted to DVBE or Materials to be Supplied by DVBE:

FOR CALTRANS USE ONLY

DVBE Name:  
DVBE Telephone Number:  
DVBE Certification Number:  
\$Amount:



Mama Bid No. 5586

Handwritten notes: 90, 21, 22, 23

Handwritten number: 1000005945

**SITE CONCRETE BID PROPOSAL**

**Presented To:**  
Fleming Environmental

**Project:**  
CalTrans 08-OR9804  
Yucca Valley, CA

**DVBE / SBE**

**Disabled Veteran Business Enterprise / Small Business Enterprise**

**Attr:** Terry, Jr.  
Phone: 714.871.2800  
Fax: 714.871.2801  
E-mail:

**Date:**  
May 20, 2015

**Scope Summary:**

We propose to furnish you labor and material as noted below at the unit price shown for the construction of the following:

Item #	Quantity	Unit	Description	Unit Price	Price
8	1	LS	TEMPORARY CONCRETE WASHOUT	\$ 1,973.69	\$ 1,973.69
21	173	CY	MINOR CONCRETE (MINOR STRUCTURE)	\$ 900.00	\$ 156,700.00
22	1	CY	MINOR CONCRETE (CURB AND GUTTER)	\$ 800.00	\$ 800.00
23	2	CY	MINOR CONCRETE (SIDEWALK)	\$ 800.00	\$ 1,600.00
28	1	LS	C,I,P CONCRETE FOR BUILDING WORK TO INCLUDE COLUMN PADS, OUTLET BOX; WALLS, THICKENED EDGES; 7.5" CONCRETE FLOOR SLAB	\$ 63,400.00	\$ 63,400.00
29	1	LS	MISCELLANEOUS CONCRETE EQUIPEMENT CONSISTING OF PIPE GUARD POST 2/ST1-7; PAD FOR PORTABLE WASHER; VACUMM & HOSE REEL ISLAND./	\$ 8,300.00	\$ 8,300.00

**Total: \$ 211,773.69**

**EXCLUSIONS**

- Free draining gravel, rock excavation, miscellaneous metals, geogrid, anchor bolts, templates and base plates will be furnished by others and installed by Mema.
- Temporary lighting.

**ADDITIONAL EXCLUSIONS**

Retention, Backfill and compaction, Backfill of curbs, walks & flgs., Shop Drawings, Grade to plus or minus one tenth to balance, Survey, engineering and staking, Rock base or sand base, Reinforcing, Traffic and pedestrian control, Traffic control plans, Demolition of any kind, Over excavation and re-compact, Permits and cost of permits., Water proofing, Topping slabs, Light weight concrete, Misc. Metals-Pipe Bollards, base plates, bolts etc., Setting or

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**SPECIAL CONDITIONS**

1. Grouting of base plates @ caissons will be done by Marne.
2. Marne will install cable rail footing sleeves which are furnished by others.

This proposal is based on drawings & specifications by CalTrans.

**GENERAL TERMS AND CONDITIONS**

1. The preparation of compacted subgrade to be within one-tenth (1/10th) of a foot to balance, unless otherwise noted, is not included in the prices above. Sand or aggregate base sub-grade is not included in the above prices, unless specifically mentioned. Not responsible for saturation of subgrade, and damage to concrete caused by expansive soils or compaction failures.
2. Prices subject to a mutually agreed upon contract.
3. This is a unit price proposal. Owner agrees to protect our work from others.
4. ADA requirements are the responsibility of the Architect and Engineer. MARNE CONSTRUCTION, Inc. will not be held responsible for meeting ADA requirements on drawings that themselves do not comply. If field changes are made to the drawings in order to conform to ADA, all costs associated with these changes shall be done on a Time and Material or Change Order Basis.
5. The above prices DO NOT include permits, fees, inspections, plans, shop drawings, bonds, cost of bonds, engineering, surveying, delineation, backfill, backfill of curbs, traffic control, barricades, location of driveway depressions, and sealing of concrete or expansion joints, or waterproofing unless otherwise noted.
6. The above price includes a MAXIMUM of 2 move-ins. Additional move-ins at \$3,500 each. Move-in charges will be strictly adhered to.
7. This bid is subject to acceptance within Sixty (60) days of its date. Prices quoted are valid through July 19, 2015. Contract work to be completed by June 15, 2016 or additional costs may apply.
8. If job schedule changes and requires premium-time work, we reserve the right to re-negotiate concrete prices or proceed on a time and material basis due to the production loss-factor of premium-time work. T&M work will be completed on our published time and material rates.
9. The terms and conditions of this proposal must be included in any contract, and, in fact, the offering of a contract by the buyer constitutes acceptance of this proposal and its conditions.
10. Access of heavy equipment to the job site and/or the specific location of contract bid work is to be provided by the buyer or his representative.
11. Terms: This proposal is based on 0% retention to offer the best possible price. If the job is to be 5% retention withholding, please add 2% to total price; for 10% retention, please add 4% to total price.
12. Overdue accounts will be charged two percent (2%) interest per month on any unpaid balance, plus any collection or legal fees required. If the buyer becomes impaired or payments are not made on schedule, the contract can be terminated at once and all payments become due and payable.
13. The scope of work includes only what is itemized on the proposal.
14. If any unstable subgrade is encountered requiring over-excavation and fill, charges will be added on a cost plus fifteen percent (15%) basis.
15. Liquidated Damages shall either be "None", "Not exceed \$2500 per calendar day", or "1% of subcontractors final contract price." This only applies if final bonds are required.
16. If required, final bonds will be provided upon request only prior to commencement of our work.
17. Any insurance credits for O.C.I.P. C.C.I.P.; etc. have been included in this proposal. Limits of Liability may be satisfied with a combination of primary and umbrella liability policies.

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18. Extra work, both proposal & T&M, cannot exceed 5% of original contract value without a valid Change Order being written to be billed against.

19. If acceptable, please approve and return one copy.

Approved \_\_\_\_\_ Title \_\_\_\_\_ Fleming Environmental

Date \_\_\_\_\_

Respectfully Submitted by *Charles Randolph*  
Charles Randolph, President  
MARNE CONSTRUCTION, INC.

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES PROCUREMENT DIVISION  
**DISABLED VETERAN BUSINESS ENTERPRISE DECLARATIONS**

STP. 001 (REV. 02/00)  
Instructions: The disabled veteran (DV) owner(s) and DV manager(s) of the Disabled Veteran Business Enterprise (DVBE) must complete this declaration when a DVBE contractor or subcontractor will provide materials, supplies, services or equipment (Military and Veterans Code Section 999.2). Violations are misdemeanors and punishable by imprisonment or fine and violators are liable for civil penalties. All signatures are made under penalty of perjury.

SECTION 1

Name of certified DVBE: Marne Construction Inc DVBE Ref. Number: 8074  
Description (materials/supplies/services/equipment proposed): Concrete  
Solicitation/Contract Number: \_\_\_\_\_ SCPRS Ref. Number: \_\_\_\_\_  
(FOR STATE USE ONLY)

SECTION 2

APPLIES TO ALL DVBEs. Check only one box in Section 2 and provide original signatures.

- I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code Section 999.2 (b), of materials, supplies, services or equipment listed above. Also, complete Section 3 below if renting equipment.
- Pursuant to Military and Veterans Code Section 999.2 (f), I (we) declare that the DVBE is a broker or agent for the principal(s) listed below or on an attached sheet(s). (Pursuant to Military and Veterans Code 999.2 (e), State funds expended for equipment rented from equipment brokers pursuant to contracts awarded under this section shall not be credited toward the 3-percent DVBE participation goal.)

All DV owners and managers of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

CHARLES RANDOLPH Charles Randolph \_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)  
\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)

Firm/Principal for whom the DVBE is acting as a broker or agent: N/A  
(If more than one firm, list on extra sheets.) (Print or Type Name)

Firm/Principal Phone: \_\_\_\_\_ Address: \_\_\_\_\_

SECTION 3

APPLIES TO ALL DVBEs THAT RENT EQUIPMENT AND DECLARE THE DVBE IS NOT A BROKER. N/A

- Pursuant to Military and Veterans Code Section 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or a DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with Military and Veterans Code Section 999 et. seq.
- The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that will be rented for use in the contract identified above. I (we), the DV owners of the equipment, have submitted to the administering agency my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in Military and Veterans Code 999.2, subsections (c) and (g). Failure by the disabled veteran equipment owner(s) to submit their personal federal tax return(s) to the administering agency as defined in Military and Veterans Code 999.2, subsections (c) and (g), will result in the DVBE being deemed an equipment broker.

Disabled Veteran Owner(s) of the DVBE (attach additional pages with signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name) (Signature) (Date Signed)  
\_\_\_\_\_  
(Address of Owner) (Telephone) (Tax identification Number of Owner)

Disabled Veteran Manager(s) of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Manager) (Signature of DV Manager) (Date Signed)