

GENERAL ENGINEERING LIC. NO. 608013

Via Fax: (819) 688-3122
Original by Federal Express: 7984 4157 8982

Via Fax: (916) 227-6282
Original by Federal Express: 7984 4156 6272

April 3, 2014

Laurie Berman
District Director
District 11
Department of Transportation (Caltrans)
4050 Taylor Street, MS 120
San Diego CA 92110

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

John C. McMillan

RE: Protest of Award of Caltrans Contract No. 11-2M5104, Location 11-IMP-86-11.3/20.6 to VSS International, Inc.

Dear Mrs. Berman and Mr. McMillan:

This letter is our protest to the prospective award of the above-referenced contract to VSS International, Inc. (VSS). The basis of the protest is our belief that VSS incorrectly stated the Percentage of Bid Item Subcontracted for Bid Item Nos. 21, 22 and 24 on the Caltrans Subcontractor List DES-OE-0102.2 (Rev 3/2011) form and mathematically unbalanced its Bid on Item No. 23, Asphaltic Emulsion Membrane and Bid Item No. 27 Tack Coat.

This belief is based on the following:

VSS Incorrectly Stated the Percentage of Bid Items Subcontracted for Bid Item Nos. 21, 22, and 24 on the Caltrans Subcontractor List DES-OE-0102.2 (Rev 3/2011) Form

VSS lists on the above-referenced form (see Attachment 1) that Chester Bross Construction Company (Bross) will be performing 100 percent of the work for Bid Items 19-24. Included in this bid item number range are Bid Item Nos. 21, 22 and 24. It is our belief that Bross will only be performing a portion of these three items as evidenced by their bid proposal for this project which has a notation of partial adjacent to each of these three bid items (see Attachment 2).

9500 Beverly Road
Pico Rivera CA
90860-2136

Additionally, Bross has a specific condition on its bid proposal noted at the end of its pricing which states:

Tel: (323) 558-8000
Fax: (323) 558-8001

Hot Mix Materials and Trucking not included Items 21, 22, and 24

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GENERAL ENGINEERING LIC. NO. 698018

We believe Caltrans should obtain Bross's quote to VSS to establish how much of these bid items Bross proposed to perform for VSS. If the supporting subcontract quote documents confirm that Bross is only performing a partial portion of the work set forth in these bid items, then VSS submitted incorrect information on the Subcontractor List form.

VSS Mathematically Unbalanced its Bid on Bid Item No. 23 Asphaltic Emulsion Membrane and Bid Item No. 27 Tack Coat

Pursuant to the Ready to List and Construction Contract Award Guide (RTL), all provisions of the RTL Guide apply to projects defined by Section 10105 of the Public Contract. This project falls within that definition.

The following provisions are set forth under Section 14, page 14-3 of the RTL, Requests to Reject Bids:

- Statement that the low bid has been reviewed for possible mathematical or material unbalancing per 23 CFR 635.102. Following are the U.S. Comptroller General's definitions of mathematically and materially unbalanced bids.
 - A bid is mathematically unbalanced if the bid is structured on the basis of nominal prices for some work and inflated prices for other work; that is, each element of the bid must carry its proportionate share of the total cost of the work plus profits.

For your easy reference, please find enclosed the applicable pages of the RTL as referenced above, included as **Attachment 3**.

The bid prices submitted by VSS for Bid Item Nos. 23 and 27 cannot under any metric be justified to represent a balanced bid for these items of work. Utilizing the most currently available Caltrans District 11 contract cost data for these two items of work (included as **Attachment 4**), the average District 11 unit price for Asphaltic Emulsion Membrane is \$729.75 per ton. VSS's unit price for the same item listed in Item No. 23 of the bid proposal is \$1.05 per ton. This item is unbalanced by 69,500 percent from the average unit price average for this item of work. Put another way, this item was bid at 99.9985 percent lower than what would customarily be the unit price for this bid item, which would normally include the cost of materials, equipment, labor and any applicable indirect mark-up percentage. The cost of material only F.O.B. at the material facility of the producers ranged from \$550.00 to \$598.00 per ton, excluding sales tax and transportation.

The same situation exists for Bid Item No. 27 Tack Coat. The Caltrans District 11 currently available cost data for this item shows an average unit price of \$1,146.78

2

GENERAL ENGINEERING LIC. NO. 699013

per ton. VSS's bid for Bid Item No. 23 is \$1.05 per ton. This item is unbalanced by 109, 215 percent from the unit price average for this item of work. Put another way, this item was bid at 99.999 percent lower than what would customarily be the average unit price for this item, which would include the cost of materials, equipment, labor and any applicable indirect mark-up percentage. The cost of material only F.O.B at the material facility of the producers ranged from \$450.00 to \$457.00 per ton, excluding sales tax and transportation.

Bross, the listed subcontractor for both these bid items, appears to have a practice of unbalancing these specific bid items on other contracts. For your information, I have included a protest letter on this exact same subject matter from Griffith Company on another Caltrans' project in District 6 (see Attachment 5). Bross was the prime contractor. Bross bid the asphaltic emulsion membrane at \$1.00 per ton. The same disparity exists for the asphaltic emulsion membrane on the District 6 bid as exists on the District 11 bid, the subject of this bid protest.

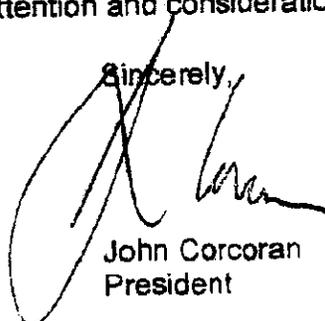
I will not reiterate the philosophy regarding mathematically unbalanced bids in this protest letter. I am confident that both of you understand the importance of maintaining the bid integrity, both for the benefit of Caltrans, and other bidders submitting competitive pricing who have not mathematically unbalanced their bids. Caltrans has had a practice of rejecting bids which are mathematically unbalanced. There are several Caltrans bids posted on the Caltrans website which have been rejected on the very same basis as the current bid protest submitted by our firm.

In conclusion, either or both of the items set forth in this letter constitutes a legitimate basis for Caltrans to reject VSS's bid for this project as being non-responsive to the bid requirements. This contract should be awarded to our firm as the next lowest responsible and response bidder. Our firm's bid has less than a 3 percent difference in price as compared to VSS's bid and is still approximately 20 percent lower than the Engineer's Estimate for this project.

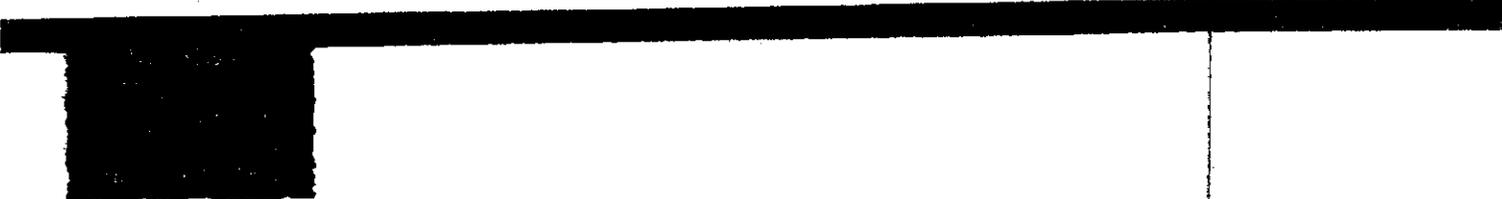
This letter will constitute as our request to receive copies of communications between Caltrans and VSS on the responsiveness issue as well as to receive notification of and the right to participate in any hearing on these issues.

Thank you in advance for your prompt attention and consideration to these matters.

Sincerely,



John Corcoran
President


GENERAL ENGINEERING INC. NO. 698013**Enclosures:**

- **Attachment 1:** Subcontractor List submitted by VSS International, Inc. for Caltrans Contract No. 11-2M5104 Imperial
- **Attachment 2:** Chester Bross Construction Bid Proposal for Caltrans Contract No. 11-2M5104 Imperial
- **Attachment 3:** RTL Guide Page VIII and Page 14-3, revised January 2014
- **Attachment 4:** Contract Cost Data for Asphaltic Emulsion Membrane and Tack Coat
- **Attachment 5:** Protest Letter from Griffith Company regarding Bid Protest of Griffith Company to Award of Contract to Chester Bross Construction, dated March 31, 2014

JC/adm.

Received
Mar 20 2014 11:44PM VSS INTERNATIONAL INC

Mar 20 2014 02:49pm

No. 854

Attachment 1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-CE-0102.2 (REV 3/2011)

Bidder Name: VSS international, Inc.

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 (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Cal Stripe, Inc. 2040 East Steel Road Collon, CA 92324	1, 6-11, 29-37 Partial 3 Partial 40	100% 7% 6.23%	Lead Compliance Plan, Striping, Striping Removal, Partial TC, Partial Mobilization
California Professional Engineering, Inc. 929 Otterbein Ave, Unit E La Puente, CA 91748	36, 39	100%	Maintain Traffic Management System, Loop Detectors
Sembrano Traffic Control, Inc. 10057 Collings Rd. Wilson, CA 95693	2, 4 Partial 3	100% 14.56%	CAS, PGMS, Partial TC
Diversific Concrete Cutting 59 Coney Island Dr. Sparks, NV 89431	Partial 25 Partial 40	65.6% 0.96%	Partial Rumble Strip, Partial Mobilization
Chester Bros Construction 38 California St, PMB 116 Valley Springs, CA 95252	13, 14, 19-24, 27 Partial 3 Partial 40	100% 12% 43.56%	Cold Plants, Excavation, Paving, Bonded Wearing Course, Grinding/Profiling, Partial TC, Partial Mobilization

ADA Notice: For individuals with sensory disabilities, this document is available in alternative formats. For information call (916) 664-6410 or TDD (916) 964-3860 or write Records and Forms Management, 1120 N Street, MS-88, Sacramento, CA 95834.

Contract No. 11-2M5104

Attachment 2



Chester Bross Construction

Western Division
39 California Street, PMB 118
Valley Springs, CA. 95252
209-920-3595 Phone
209-263-0123 Fax

Contact: Shawn Simmons
Shawn.simmons@chesterbross.com

Contractor's license CA: A-978879

To: Manhole Adjusters
ICO: John
Job name: CALTRANS 11-2M5104 IMPERIAL
Quote #: CBC2014-104
Proposal date: 4/20/14
Project bid date: 4/20/14
Addenda: 2
Date of plans:
Date of revision:

ITEM	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE
3 (PARTIAL)	TRAFFIC CONTROL SYSTEM	LS	1	\$48,000.00	\$48,000.00
13	GOLD PLANE A.C.F.	SY	2200	\$6.00	\$13,200.00
14	ROADWAY EXCAVATION	CY	1210	\$35.00	\$42,350.00
19	PREPAVING INERTIAL PROFILER	LS	1	\$5,000.00	\$5,000.00
20	PREPAVING GRINDING DAY	EA	3	\$15,000.00	\$45,000.00
21 (PARTIAL)	REPLACE ASPHALT CONC. SURFACING	CY	600	\$200.00	\$120,000.00
22 (PARTIAL)	HOT MIX ASPHALT (TYPE C)	TON	2370	\$50.00	\$118,500.00
23	ASPHALTIC EMULSION MEMB. (BWC)	TON	80	\$1.00	\$80.00
24 (PARTIAL)	RUBBERIZED HMA (BWC)	TON	3080	\$60.00	\$184,800.00
27	TACK COAT	TON	11	\$1.00	\$11.00
40 (PARTIAL)	MOBILIZATION	LS	1	\$95,000.00	\$95,000.00
TOTAL:					\$671,941.00

*** HOT MIX MATERIALS AND TRUCKING NOT INCLUDED ITEMS 21, 22, AND 24) ***

TERMS AND CONDITIONS:

Unit price quotation.
PRIME CONTRACTOR TO FURNISH AND DELIVER HOT MIX MATERIALS TO CHESTER BROSS AT THE JOBSITE
AT NO COST TO CHESTER BROSS FOR BID ITEMS 21, 22, AND 23. ** HOT MIX MATERIALS NOT INCLUDED IN
THIS PRICE QUOTE ***

- This proposal is all or nothing unless agreed upon prior to bid close.
- Chester Brass is a Union Contractor.
- Proposal is based on 1 mobilization to and from the project site. Additional mobilization billed at cost plus 15%.
- Prices include QC for CBC portions of work only. No plant or supply QC included.
- Proposal is valid for 30 days from the proposal date above.
- The acceptance of this proposal is contingent on a mutually agreed upon schedule.
- Three weeks minimum notice required for scheduling.
- Prices herein exclude any premium time for labor.
- General Contractor to provide clean out area for paver at the end of each shift, CBC will clean out the machine generating spoils on and near a plastic parking blanket. Said spoils and plastic to be cleaned up and disposed of by the Prime Contractor at no additional cost to CBC.
- Proposal based on consecutive paving days.
- CBC not responsible for pre or post profile ride testing or smoothness requirements attributed thereto other than those directly attributed to fault of CBC's workmanship.
- General Contractor shall bear the entire risk of loss and or damage to the equipment from any cause, except to the extent such damage may be directly attributed to CBC's sole negligent acts or omissions. If the equipment or any portion thereof is destroyed, in whole or in part, or is damaged by accident or other casualty, General Contractor and CBC will cause the proceeds of any insurance settlement, insurance payment, judicial or arbitral award or any other payment for the damage or destruction of the equipment to be applied to the prompt replacement, repair, restoration, modification, or improvement to the equipment. If the damage payment is insufficient to pay the entire cost of any repair, restoration, modification or improvement and pay cost thereof in excess of damage payment.
- The acceptance of this proposal is contingent on the approval of the CBC credit department.
- Payments are due net 30, interest at 1.5% on any amounts pending after 30 days.
- Proposal excludes any and all layout, surveying, permits, fees temporary or permanent striping, and SWPPP measures.
- No retention to be withheld.
- Traffic Control for CBC work only.
- No bond included.
- Anything not specifically shown as included should be considered excluded.
- The terms included within or referenced by this proposal are to be included in any contract agreement.

Please call if you have questions.



Shawn N. Simmons
Western Division Manager

RTL GUIDE

Attachment 3

PURPOSE, BACKGROUND AND PROCESS OVERVIEW

PURPOSE, BACKGROUND AND PROCESS OVERVIEW**I. PURPOSE**

The *Ready to List and Construction Contract Award Guide* describes activities, roles and responsibilities required by Department, Local Agency and Consultant staff to complete project Plans, Specifications and Estimate and bid documents, and to advertise, open bids, award and approve construction contracts.

The RTL Guide applies to projects defined by Section 10105 of the Public Contract Code regardless of funding source.

The RTL Guide requires the Project Engineer, acting as the Engineer of Record signing and sealing the Title Sheet on the Plans, certify that a project is Ready to List. This is to ensure that all applicable design, right of way, environmental, regulatory, and statutory conditions have been addressed in the plans, specifications, and estimate. By exercising responsible charge in certifying the project as RTL, the Engineer of Record either personally performs the work or has determined the applicability of design criteria and technical recommendations provided by others before incorporating such criteria or recommendations per Business and Professions Code 6700-6703.3, and Board Rules and Regulations Relating to the Practices of Professional Engineering and Professional Land Surveying, California Code of Regulations, Title 16, Division 5, §§-400-476. Depending on the type of the project the Project Engineer would be a licensed civil engineer, electrical engineer or landscape architect. The term "registered" is synonymous with "licensed."

II. BACKGROUND

Section 10120 of the Public Contract Code (part of the State Contract Act) states:

"Before entering into any contract for a project, the Department shall prepare full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out."

In the Public Contract Code section cited above, the terms "full, complete, and accurate" can be defined as follows:

- "Full" means that all existing and proposed elements necessary to bid and build the project within scope are included.
- "Complete" means that all elements are detailed.

RTL GUIDE

SECTION 14

DISTRICT RECOMMENDATION FOR AWARD/REQUESTS TO REJECT BIDS

- Discussion of the differences between the bid items and the Engineer's Estimate. Be specific, e.g., The bid prices have been reviewed and are in reasonable conformance with the Engineer's Estimate or Two items, Traffic Control System and Rock Excavation, account for 98% of the difference between the low bid and the Engineer's Estimate. The EE was based on blasting. The low bidder plans to excavate by ripping, resulting in substantial savings.
- Statement that the low bid has been reviewed for possible mathematical or material unbalancing per 23 CFR 635.102. Following are the U.S. Comptroller General's definitions of mathematically and materially unbalanced bids.
 - A bid is mathematically unbalanced if the bid is structured on the basis of nominal prices for some work and inflated prices for other work; that is, each element of the bid must carry its proportionate share of the total cost of the work plus profits.
 - A bid is materially unbalanced if there is reasonable doubt that award to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Government.
- Statement describing water availability for construction per Deputy Directive 13, Water Conservation.
- If applicable, a statement that local agency funds are (or are not) on deposit in accordance with cooperative agreement(s). If the funds are not on deposit, follow up with a confirmation once the funds are on deposit.
- If applicable, a statement that escrow by the three low bidders was successfully completed.
- If applicable, a statement that the days bid to complete an A+B contract are reasonable.
- If applicable, the Right of Way Certification has been updated.
- Any necessary clearances have been received or permits have been issued.
- Recommendation to award to the lowest responsive and responsible bidder of the bids received or to reject bids including justification for the recommendation.
- Signature or concurrence of the District/Region Office Engineer.

California Department Of Transportation: Contract Cost Data Results

Page 1 of 1

Attachment 4

CALIFORNIA DEPARTMENT OF TRANSPORTATION - CONTRACT COST DATA

Item No. / Description	Unit	Dist	Qty	Unit Price	Adj Price	Total	Bid Open Date	Contract No.	Bid	M	TRO
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	170	\$750.00	\$860.73	\$127500.00	04-26-2012	2M2404	1		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	170	\$600.00	\$688.68	\$102000.00	04-26-2012	2M2404	2		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	170	\$968.00	\$1110.91	\$164560.00	04-26-2012	2M2404	3		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	170	\$720.00	\$826.30	\$122400.00	04-26-2012	2M2404	4		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	180	\$500.00	\$573.82	\$90000.00	05-03-2012	2M2404	1		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	180	\$750.00	\$860.73	\$135000.00	05-03-2012	2M2404	2		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	180	\$800.00	\$918.11	\$144000.00	05-03-2012	2M2404	3		
<input checked="" type="checkbox"/> 390151 - ASPHALTIC EMULSION MEMBRANE (BONDED WEARING COURSE)	TON	11	180	\$750.00	\$860.73	\$135000.00	05-03-2012	2M2404	4		

SUMMARY

	Unmodified	Adjusted		
Average Price/Unit: \$	729.75	837.48	Avg No. Units	175
Std Dev. (of Unit Price): ±\$	128.76	147.77	Rows Selected	8
Weighted Avg.: \$	728.90	836.51	Rows Returned	8
Minimum Price/Unit: \$	500.00	573.82		
Maximum Price/Unit: \$	968.00	1,110.91		

- Adjusted prices are ~~adjusted~~ to today's dollars based on the ~~California Consumer Price Index~~
- To remove a row from the calculations, uncheck the checkbox next to that row.
- To see additional information for a contract, click on that contract number.
- To see a trend graph of prices for an item, click on the item number.

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California Department Of Transportation: Contract Cost Data Results

Item No. / Description	Unit	Dist	Qty	Unit Price	Adj Price	Total	Bid Open Date	Contract No.	Bid	M	TRO
397001 - TACK COAT	TON	11	49	\$69.00	\$49.66	\$3381.00	06-06-2013	11-000004	5	M	
397002 - TACK COAT	TON	11	10	\$900.00	\$647.75	\$9000.00	06-13-2013	11-000004	1		
397003 - TACK COAT	TON	11	10	\$600.00	\$431.83	\$6000.00	06-13-2013	11-000004	2		
397004 - TACK COAT	TON	11	83	\$500.00	\$359.86	\$41500.00	06-27-2013	11-000004	1	M	TRO
397005 - TACK COAT	TON	11	83	\$700.00	\$503.80	\$58100.00	06-27-2013	11-000004	2	M	TRO
397006 - TACK COAT	TON	11	83	\$600.00	\$431.83	\$49800.00	06-27-2013	11-000004	3	M	TRO
397007 - TACK COAT	TON	11	83	\$500.00	\$359.86	\$41500.00	06-27-2013	11-000004	4	M	TRO
397008 - TACK COAT	TON	11	1.6	\$500.00	\$594.91	\$800.00	07-25-2013	11-000004	1	M	
397009 - TACK COAT	TON	11	1.6	\$1500.00	\$1784.74	\$2400.00	07-25-2013	11-000004	2	M	
397010 - TACK COAT	TON	11	1.6	\$2000.00	\$2379.66	\$3200.00	07-25-2013	11-000004	3	M	
397011 - TACK COAT	TON	11	1.6	\$1442.78	\$1718.66	\$2308.45	07-25-2013	11-000004	4	M	
397012 - TACK COAT	TON	11	1.6	\$1400.00	\$1665.76	\$2240.00	07-25-2013	11-000004	5	M	
397013 - TACK COAT	TON	11	1.6	\$1425.00	\$1695.51	\$2280.00	07-25-2013	11-000004	6	M	
397014 - TACK COAT	TON	11	33	\$1000.00	\$1189.83	\$33000.00	09-05-2013	11-000004	1	M	TRO
397015 - TACK COAT	TON	11	33	\$1400.00	\$1665.76	\$46200.00	09-05-2013	11-000004	2	M	TRO
397016 - TACK COAT	TON	11	33	\$700.00	\$832.88	\$23100.00	09-05-2013	11-000004	3	M	TRO
397017 - TACK COAT	TON	11	33	\$700.00	\$832.88	\$23100.00	09-05-2013	11-000004	4	M	TRO
397018 - TACK COAT	TON	11	33	\$1285.00	\$1528.93	\$42405.00	09-05-2013	11-000004	5	M	TRO
397019 - TACK COAT	TON	11	33	\$1000.00	\$1189.83	\$33000.00	09-05-2013	11-000004	6	M	TRO
397020 - TACK COAT	TON	11	48	\$600.00	\$713.90	\$27600.00	09-12-2013	11-000004	1	M	TRO
397021 - TACK COAT	TON	11	46	\$1000.00	\$1189.83	\$46000.00	09-12-2013	11-000004	2	M	TRO
397022 - TACK COAT	TON	11	48	\$375.00	\$446.19	\$17250.00	09-12-2013	11-000004	3	M	TRO
397023 - TACK COAT	TON	11	48	\$1275.00	\$1517.03	\$56650.00	09-12-2013	11-000004	4	M	TRO
397024 - TACK COAT	TON	11	46	\$600.00	\$713.90	\$27600.00	09-12-2013	11-000004	5	M	TRO
397025 - TACK COAT	TON	11	46	\$1100.00	\$1308.81	\$50600.00	09-12-2013	11-000004	6	M	TRO
397026 - TACK COAT	TON	11	0.4	\$800.00	\$731.37	\$320.00	10-24-2013	11-000004	1	M	
397027 - TACK COAT	TON	11	0.4	\$2500.00	\$2285.55	\$1000.00	10-24-2013	11-000004	2	M	
397028 - TACK COAT	TON	11	0.4	\$500.00	\$457.11	\$200.00	10-24-2013	11-000004	3	M	
397029 - TACK COAT	TON	11	0.4	\$697.01	\$637.22	\$278.80	11-14-2013	11-000004	1	M	
397030 - TACK COAT	TON	11	0.4	\$700.00	\$639.85	\$280.00	11-14-2013	11-000004	2	M	
397031 - TACK COAT	TON	11	0.4	\$1100.00	\$1005.64	\$440.00	11-14-2013	11-000004	3	M	
397032 - TACK COAT	TON	11	0.4	\$400.00	\$365.69	\$160.00	11-14-2013	11-000004	4	M	
397033 - TACK COAT	TON	11	0.4	\$500.00	\$457.11	\$200.00	11-14-2013	11-000004	5	M	
397034 - TACK COAT	TON	11	0.4	\$1000.00	\$914.22	\$400.00	11-14-2013	11-000004	6	M	
397035 - TACK COAT	TON	11	0.4	\$700.00	\$639.95	\$280.00	11-14-2013	11-000004	7	M	
397036 - TACK COAT	TON	11	0.4	\$600.00	\$548.53	\$240.00	11-14-2013	11-000004	8	M	

SUMMARY	Unmodified	Adjusted		
Average Price/Unit: \$	1,146.78	1,023.03	Avg No. Units	17
Std Dev. (of Unit Price): ±\$	1,290.83	1,075.87	Rows Selected	73

Received

Mar 31 2014 02:53pm

Attachment 5

1/2

31-Mar-2014 02:44 PM GRIFFITH COMPANY - Central: 661-393-9525



March 31, 2014

VIA FACSIMILE (916) 227-6282 AND FEDEX

Corporate Office
3050 E. Birch Street
Brea, CA 92621
(714) 994-6200
Fax (714) 994-6784

Central Office
1135 Calvert Parkway Ave
Bakersfield, CA 93309
(805) 383-8840
Fax (805) 383-8826

Southwest Division
12200 Bloomfield Ave.
Santa Fe Springs, CA 90670
(562) 899-1188
Fax (562) 894-9970

Structural Division
3050 E. Birch Street
Brea, CA 92621
(714) 994-6860
Fax (714) 994-6327

Thompsonville Division
3050 E. Birch Street
Brea, CA 92621
(714) 994-6600
Fax (714) 994-6226

Landscape Division
12200 Bloomfield Ave.
Santa Fe Springs, CA 90670
(562) 899-1138
Fax (562) 899-3448

Concrete Division
12200 Bloomfield Ave.
Santa Fe Springs, CA 90670
(562) 899-1188
Fax (562) 894-9970

www.griffithcompany.com

Contractors License #68

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 No. 06-0Q8104
06-KER-155,204-R5.6/R11.0;R0.0/3.7
Bids Opened March 26, 2014
Bid Protest of Griffith Company to Award of Contract to Chester
Bross

Dear Mr. McMillan,
Griffith Company, the second lowest monetary bidder for this contract, hereby protests the bid of the lowest monetary bidder, Chester Bross Construction Company ("CBCC"). As explained in more detail below, CBCC's bid fails to comply with both State and Federal contract approval processes. Therefore, CBCC's bid must be deemed non-responsive and the contract awarded to the lowest responsive and responsible bidder, Griffith Company.

CBCC bid Contract Item No. 13 to provide 140 tons of Asphaltic Emulsion Membrane for a total cost of \$140 (or \$1.00 per ton). The average total bid for this item from the 2nd and 3rd low bidder is \$106,050 (or \$757.50 per ton). This item is unbalanced by 75,650% from the average. Furthermore, from the 2012 Contract Cost Data published by Caltrans the average unit price for this item of work in 2012 was \$692.38 per ton. It is clear that CBCC materially unbalanced its bid to the detriment of Caltrans. The estimated quantity of membrane shown on the drawings is 5% (7 ton) less than shown on the bid schedule. If this is the quantity shown on the drawings is the true quantity then Caltrans will not benefit from the savings on the under run item and will end up paying more for the project due to the unbalanced bid.

It is Caltrans duty to protect the integrity of the bidding process and protect the interests of the State. Therefore, Caltrans must deem CBCC's bid non-responsive and award the contract to Griffith Company.

Received

Mar 31 2014 02:54pm

31-Mar-2014 02:44 PM GRIFFITH COMPANY - Central: 661-393-9525

2/2



Central Office
3050 E. Birch Street
Fresno, CA 93821
(714) 884-8800
Fax (714) 884-8764

Should you have any questions regarding this request please call me at (661)392-6640.

Central Office
1128 Center Parkway Ave
Bakersfield, CA 93305
(805) 833-8840
Fax (805) 833-8825

Respectfully,

Lucas J. Walker
Regional Manager
Griffith Company

Southwest Office
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Santa Fe Springs, CA 90670
(882) 826-1126
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cc: Eld Flie

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Contractors
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AGGREGATE PRODUCTS INC.

General Engineering License No. 698013

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Pico Rivera, CA 90660-2135

Tel: (323) 558-8000 Fax: (323) 558-8020

FACSIMILE TRANSMITTAL SHEET

TO: John C. McMillan		FROM: JOHN CORCORAN	
COMPANY OR AGENCY: DEPARTMENT OF TRANSPORTATION (CALTRANS)		DATE: 4/3/2014	TIME: 5:46:55 PM
FAX NUMBER: (916) 227-6282	PHONE NUMBER: (916) 227-6300	NUMBER OF PAGES INCLUDING COVER: 14	
SUBJECT: Protest of Award of Caltrans Contract No. 11-2M5104, Location 11-IMP-86-11.3/20.6 to VSS International, Inc.			

- | | | |
|---|---------------------------------------|--|
| <input type="checkbox"/> As Requested | <input type="checkbox"/> For Your Use | <input checked="" type="checkbox"/> For Your Information |
| <input type="checkbox"/> For Discussion | <input type="checkbox"/> Please Call | <input type="checkbox"/> For Your Comments |
| <input type="checkbox"/> Per Telephone Conversation | <input type="checkbox"/> Other | |

MESSAGE:

Please find enclosed a letter to Laurie Berman of Caltrans and John C. McMillan of Caltrans regarding Protest of Award of Caltrans Contract No. 11-2M5104, Location 11-IMP-86-11.3/20.6 to VSS International, Inc., dated April 3, 2014.

Thank you.

Original of this Fax:

WILL FOLLOW BY FEDERAL EXPRESS WILL NOT FOLLOW

Fax sent by:

Alejandra D. Mattoni

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL TO MANHOLE ADJUSTING INC. VIA THE U.S. POSTAL SERVICE. THANK YOU.