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August 4, 2011

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BOARD OF SUPERVISORS
EL DORADO COUNTY
2:10 pm, Aug 05, 2011

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Fax Transmittal – No hard Copy to Follow

Mr. Clinton W. Myers
Myers and Sons Construction, L.P.
2554 Millcreek Drive
Sacramento, CA 95833

**Subject: Ice House Road Bridges Maintenance Project
(Contract PW 09-30469, CIP No. 77121)
Response to Myers Bid Protest dated July 29, 2011**

Dear Mr. Myers:

This letter serves to respond to your July 29, 2011 letter received via fax on August 1, 2011 protesting Victory Engineers, Inc.'s bid.

You stated in your letter that "On Page P-13 of Victory Engineers, Inc. bid, under important notice Victory failed to fill out the required information. It states as follows 'state legal name of corporation and place of incorporation'".

Response: Although Victory Engineers Inc.'s (Victory's) bid did not include this information, El Dorado County Department of Transportation (DOT) has verified from the California Secretary of State's website that Victory is a California Corporation whose legal name is "Victory Engineers, Inc." Omission of this information is an irregularity which the Board of Supervisors has the discretion to waive. DOT will recommend that the Board waive this irregularity.

Your letter states that "On page P-14 of Victory's bid proposal they did not list the total claimed UDBE Participation dollars, and did not perform a good faith effort to meet the requirements. In addition, Victory did not properly list 'Sam's Equip' due to the fact that there is no expiration date on the UDBE Certification and no address and phone number listed for 'Sam's Equip'".

Response: Victory submitted a copy of Sam's Equip's quote and certifications, a copy of which was faxed to you this morning. The quote includes Sam's Equip's address and phone number. DOT verified on Caltrans DBE website that Sam's Equipment is currently a certified UDBE. Using Victory's quote and its UDBE Commitment form, DOT calculated a UDBE Participation of \$6,657.53 (11,095.88 x 60% for a supplier from a UDBE regular

dealer) which amounts to the 1.9% goal shown on Victory's UDBE Commitment form. The special provisions state that "If your UDBE Commitment form shows you have met the UDBE goal or if you are required to submit the UDBE Commitment form, in order to protect your eligibility for award of the contract in the event the County finds the UDBE goal has not been met, you must also submit good faith efforts documentation within the specified time." Federal regulations require that a bidder either meet the established UDBE goal or demonstrate good faith efforts to meet the goal. DOT has verified that Victory met the UDBE goal. Had DOT determined that Victory did not meet the UDBE goal, we would have had to recommend that the Board find its bid non-responsive because it would have neither met the goal nor demonstrated a good faith effort to meet the goal.

Finally, your letter states that the bidders bond Victory submitted was not for the bid that took place on July 25, 2011 and therefore is invalid. The date on the bid bond was prior to the date that this project was advertised and therefore it could not have been contemplated that this bid bond was for this bid.

Response: DOT believes that the bid bond is valid and binding because the bid bond is in the amount of 10% of the amount of the total bid price, references the correct project and contract number, is properly notarized, and has a Power of Attorney that is current with the issuance of the bid bond.

Consequently, your recommendation that the Board reject Victory's bid and award the bid to Myers and Sons Construction, LP is denied. As required by the County's protest procedures, we will include the details of this protest in our report to the Board of Supervisors. The Board of Supervisors will take comment from the bidder, staff, and members of the public who wish to speak on the item on August 9, 2011, at 9:00 a.m., at 330 Fair Lane, Placerville, CA 95667.

Sincerely,



Janel Gifford, P.E.
Senior Civil Engineer
Office Engineer/Contract Service Unit

PC: Victory Engineers, Inc