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Sweetwater Springs WATER DISTRICT

STEPHEN F. MACK, *General Manager*

May 19, 2010

Bryan Berthiaume, Executive Director
Foundation for Fair Contracting
3807 Pasadena Ave., Suite 150
Sacramento, CA 95821

Re: Sweetwater Springs Water District CIP Phase IV-B, Project 2
KAT Construction Bid Award

Mr. Berthiaume:

I am the general manager of Sweetwater Springs Water District (SSWD) in Sonoma County and I am in receipt of a bid protest submitted by the Foundation for Fair Contracting (FFC) relating to the above-referenced project (Project). The basis of the protest was the "non-responsiveness" of the low bidder, KAT Construction, Inc.

Thank you for providing the background information on other projects in which KAT Construction was a contractor. However, the issue of "responsiveness" of a bid focuses on whether the bid failed, in any material respect, to comply with the Bid Instructions or other procedural requirements. The basis of FFC's protest doesn't appear be one of "responsiveness" since there is no allegation that either SSWD or KAT Construction failed to comply with proper bid procedures or instructions. Since there are no facts in the letter suggesting that the bid is non-responsive, there is no basis for further consideration of the protest on the grounds of "non-responsiveness", which are the only grounds asserted. In addition, since the contract has already been awarded by SSWD's Board of Directors (Board), the bid protest is untimely.

When the contract for this Project was awarded, the Board made a specific determination that the bid was, in fact, responsive and that KAT Construction was a responsible bidder. The Board found as follows: (1) the bid submitted by KAT Construction satisfied the bidding instructions and requirements for the Project; (2) KAT Construction satisfied the licensing requirements to undertake and complete the Project; and (3) KAT Construction was otherwise qualified to perform the Project. KAT Construction recently completed a similar project for SSWD to the satisfaction of the Board.

Once again, thank you for your interest in this Project and for providing SSWD with this background information on KAT Construction.

Sincerely,

Steve Mack
General Manager

cc: Jack Locey, Brelje and Race Consulting Engineers
Mike Gogna, Meyers, Nave

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