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November 19, 2014

VIA FACSIMILE AND CERTIFIED MAIL

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 Division of Engineering Services
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**Re: Construction on State Highway in Los Angeles County in La Canada Flintridge, Glendale and Pasadena from Dunsmore Avenue Undercrossing to North Los Robles Avenue Overcrossing, Contract 07-2881U4
 Response to Protest of Security Paving Company, Inc.**

Dear Mr. McMillan:

Flatiron West, Inc. ("Flatiron") has reviewed Security Paving Company, Inc.'s ("Security") latest letter dated November 18, 2014. Once again, Security has raised no new issues and continues to assert a specious position. In particular, its continued contention that Flatiron's DBE Commitment Form was inconsistent with Caltrans bidding requirements is simply false. Likewise, Security's continued reference to prior bid protests are of no value, as the subject protests involved completely different facts and policy issues.

A. Gordon N. Ball, Inc. Unrelated Protests

Security references two unrelated bid protests involving the same contractor Gordon N. Ball, Inc. ("Contractor"). Both bids were determined non-responsive as they each contained the following type of bid irregularity:

- The Contractor listed subcontractors on bid day for certain scopes of work as "partial" but in its 24-hour submission changed the scope to "100%". This clearly is an impermissible expansion of the scope of work (partial to 100%) and has nothing to do with the bid submitted by Flatiron.
- The Contractor listed on bid day a subcontractor for a specific scope of work "Striping" without any reference to "Related" or "Partial." In its 24-hour submission, it included items that were not within the specific Striping scope. This has nothing to do with the bid submitted by Flatiron, as Flatiron expressly listed scopes as including "and Related (Partial)." As set forth in Flatiron's prior response letters, this was proper, the items are related, and this is a standard acceptable practice for Caltrans bid submissions.

Once again, Caltrans should reject Security's strained arguments and reference to unrelated and inapposite prior bid protests.

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B. DBE Commitment Form

As previously indicated in Flatiron's prior responses, Security continues to falsely claim that the DBE Commitment Form "must be the same" as what is required to be listed on bid day. This is untrue. The DBE Commitment Form "must be consistent, where applicable, with the names" listed on Bid Day. In other words, if a DBE Subcontractor is required to be listed on Bid Day because of the Listing Laws (i.e., subcontractors with work that is greater than one-half of 1% or \$10,000, whichever is greater), then the DBE Commitment Form "must be "consistent, where applicable," with any DBE Subcontractors that were listed on Bid Day as required by the Listing Laws. As indicated in Flatiron's November 3, 2014 response letter, entirely consistent with the law, when Flatiron completed the required DBE Commitment Form, it reported those DBE subcontractors that were not required to be listed under the Act in the bid day submittal because their subcontract values were under the Act's listing limits. In its post bid submission of its DBE Commitment Form, Flatiron properly identified those subcontractors. This was entirely "consistent, where applicable" with the Subcontractor Listing requirements. Security's contentions otherwise are baseless and must be rejected.

Further, Caltrans Construction Manual (Sept. 2014) fully supports the correctness of Flatiron's listing and expressly rejects Security's arguments otherwise. The first paragraph in Section 8-303B of the Manual states, in part, as follows:

In those instances where a DBE or DVBE subcontractor exceeds the dollar figure threshold (half of 1 percent of the total bid, or \$10,000, whichever is greater) specified in the Fair Practices Act, the DBE or DVBE must also be listed on the "subcontractor list." Conversely, a DBE or DVBE whose value of work falls below the threshold will not be listed on the subcontractor list, in accordance with the Fair Practices Act.

As directly addressed by the Caltrans Construction Manual, Security's protest on this issue has no merit and should be rejected.

Once again, Flatiron respectfully requests that the contract be awarded to Flatiron.

If you have any questions regarding this matter please feel free to contact the undersigned at 714-482-5259 or cpeich@flatironcorp.com.

Thank you.

Christian M. Peich
Vice President
Flatiron West, Inc.