

GENERAL CONTRACTOR
LICENSE NO. 116307 A C12
FAX: 818.362.9300

SECURITY PAVING COMPANY, INC.

13170 TELFAIR AVENUE
SYLMAR, CA 91342
TEL. 818.362.9200

November 18, 2014

State of California, Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816

Attention: John McMillan, Deputy Division Chief

Re: Further Response by Security Paving Company, Inc. in Support of Bid Protest to Award of Contract to Flatiron West, Inc.
Contract No. 07-2881U4
Bids Opened: October 16, 2014
Lowest Responsive Bidder: Security Paving Company, Inc.
Non-Responsive Bidder: Flatiron West, Inc.

Dear Mr. McMillan:

Bids for Caltrans Contract No. 07-2881U4 (the "Contract") were opened on October 16, 2014. Security Paving Company, Inc. ("Security Paving") submitted its formal protest of the bid submitted by Flatiron West, Inc. ("Flatiron") for the Contract on October 28, 2014. Caltrans recently rejected several bids where the bidder submitted inconsistent Subcontractor Lists, 24 Hour Submittals and DBE Commitment forms. These determinations by Caltrans are consistent with the issues raised by Security Paving's bid protest and Security Paving would like to bring them to your attention when making a determination on the Contract.

Security Paving's protest raised three main issues: 1) that Flatiron's bid day and twenty-four hour subcontractor listings are materially inconsistent with respect to the work identified for American Civil Constructors West Coast, Inc.; 2) that Flatiron's bid day and twenty-four hour subcontractor listings are materially inconsistent with respect to the work identified for Morales Contracting Services; and 3) that the First Tier DBE Subcontractor's listed by Flatiron on the DBE Commitment form are not consistent with the subcontractors identified on bid day. Security Paving asserts that Flatiron made impermissible, material changes to the Subcontractor List form and DBE Commitment form that render its bid non-responsive. Security Paving also asserts that Caltrans has consistently rejected bids where, like Flatiron, the bidder has altered a subcontractor scope of work in its post-bid submission and Caltrans has strictly enforced its subcontractor listing requirements in the past. As further evidence of Caltrans' strict enforcement of the Subletting and Subcontracting Fair Practices Act as well as Caltrans' instructions on the Subcontractor List form, Caltrans recently rejected other bids for these same violations.

On November 14, 2014 Caltrans rejected the bid of Gordon N. Ball, Inc. ("Gordon Ball") on Contract No. 04-2G8604. In examining Gordon Ball's bid, Caltrans determined that there were material inconsistencies between the Subcontractor List and 24 Hour Submittal, as well as the DBE Commitment Form. Specifically, Gordon Ball made the following material errors in its bid: 1) Chrisp was listed on the

SECURITY PAVING COMPANY, INC.

GENERAL CONTRACTOR
LICENSE NO. 118307 A C12
FAX: 818.382.9300

13170 TELFAIR AVENUE
SYLMAR, CA 91342
TEL. 818.362.9200

Subcontractor List to perform "Striping" and on the 24 Hour Submittal the work was expanded to include "Channelizer (Surface Mount)"; 2) Selby's Soil Erosion Control was listed on the Subcontractor List to perform "Erosion Control (Partial)" and on the 24 Hour Submittal the work was expanded to include "Temporary Hydraulic Mulch (Water pollution control)"; and 3) JJ Nguyen was listed on the Subcontractor List to perform "Landscaping" and on the DBE Commitment the work was expanded to include "Remove Irrigation Facility." In each instance Caltrans found that submitting inconsistent Subcontractor Lists, 24 Hour Submittals and DBE Commitments forms were material errors that rendered Gordon Ball's bid non-responsive.

Similarly, on November 14, 2014 Caltrans rejected a separate bid by Gordon Ball on Contract No. 04-1SS024. In examining Gordon Ball's bid, Caltrans once again determined that there were material inconsistencies between the Subcontractor List and 24 Hour Submittal. Specifically, Gordon Ball made the following material errors in its bid: 1) Bayside Stripe & Seal was listed on the Subcontractor List to perform "Striping" and on the 24 Hour Submittal the work was expanded to include "Channelizer (Surface Mount)"; and 2) RMT Landscape was listed on the Subcontractor List to perform "Erosion Control (Partial)" and on the 24 Hour Submittal the work was expanded to include 100% of the work. Again, Caltrans found that submitting inconsistent Subcontractor Lists and 24 Hour Submittals were material errors that rendered Gordon Ball's bid non-responsive.

Flatiron has argued that Caltrans' determinations on other contracts are irrelevant because Flatiron included "as related" in each work description. As Security Paving already pointed out, this is a moot point, Caltrans has always looked at whether inconsistent work descriptions were related or not. Security Paving urges that Caltrans should remain consistent on all contracts and projects throughout the State so that all bidders are competing on a level playing field. Inconsistency in determinations regarding errors in completing the Subcontractor List, 24 Hour Submittal, and DBE Commitment form creates confusion and uncertainty for bidders. By maintaining a strict, consistent practice across the board, bidders are better informed and the strict requirements of the Subletting and Subcontracting Fair Practices Act as well as Caltrans' instructions on the Subcontractor List form are better enforced. Changing the scope of work after bid day creates an advantage over other bidders and such a defect cannot be waived.

Security Paving urges that Caltrans remain consistent with prior similar determinations on other contracts and strictly enforce Caltrans' bidding instructions as well as the Public Contract Code. Security Paving respectfully asserts that Caltrans should find Flatiron's bid to be non-responsive, disqualify Flatiron's bid on that basis, and award Contract No. 07-2B81U4 to Security Paving, the lowest *responsive*, responsible bidder.

GENERAL CONTRACTOR
LICENSE NO. 116307 A C12
FAX: 818.362.9300

**SECURITY
PAVING**
COMPANY, INC.

13170 TELFAIR AVENUE
SYLMAR, CA 91342
TEL. 818.362.9200

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Respectfully submitted,



Joseph Ferndino, Vice President
Security Paving Company, Inc.

SECURITY PAVING COMPANY, INC.

P. O. BOX 1489 SUN VALLEY, CA. 91353-1489 PH.(818) 767-8418 FAX(818) 767-3169

* Fax Cover Sheet *

Date: 11/18/14

To: John Mc Millan
Company: Caltrans Office Engineer

Phone: (916) 227-6300

Fax: (916) 227-6282

From: Joe Ferndino

Subject: 07-288144

REGARDING: Bid Protest

This cover page is 1 of 4 pages.

*IF THERE IS ANY OTHER INFORMATION YOU NEED PLEASE LET ME KNOW.

OFFICE# (818)767-8418 OR FAX# (818)767-3169.

THANK YOU