

GENERAL CONTRACTOR
LICENSE NO. 118307 A C12
FAX: 818.362.9300

SECURITY PAVING COMPANY, INC.

13170 TELFAIR AVENUE
SYLMAR, CA 91342
TEL. 818.362.9200

November 21, 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:

Security Paving Company, Inc. ("Security Paving") has reviewed the Response No. 3, dated November 19, 2014, by Flatiron West, Inc. ("Flatiron") to Security Paving's formal protest of the bid submitted by Flatiron for Caltrans Contract No. 07-2881U4 (the "Contract"). Flatiron persistently continues to make the same flawed argument, namely, that all other and prior Caltrans' determinations approving or rejecting bids are inapplicable to the Flatiron bid because Flatiron included the phrase "and related" in its work descriptions. As Security Paving has already pointed out, contrary to Flatiron's argument, it cannot circumvent the subcontractor listing requirements simply by using the catch-all phrase "and related" next to each description of work to be performed by a listed subcontractor. With respect to the Gordon N. Ball, Inc. ("Gordon Ball") bid, Flatiron admits that "[Gordon Ball's] 24-hour submission ... included items that were not within the specific Striping scope." Despite this admission, Flatiron implies that had Gordon Ball included "and related" in its description, Gordon Ball's bidding errors and violations could have been overlooked. Flatiron wants Caltrans to do the same with respect to this Contract – overlook Flatiron's bidding errors and violations because the work description included "and related."

Flatiron's position is simply erroneous. As Security Paving has previously pointed out, Caltrans has always examined whether the work identified post bid was **related to** the description provided on bid day, regardless of whether the bidder included "and related" in its description. Flatiron's contention that prior Caltrans determinations are invalidated because Flatiron added "and related" to its work description is frivolous and has no merit. Further, with respect to its bid on this Contract, Flatiron has failed to provide any plausible explanation for how Bid Item 111 – High Friction Surface Treatment is **related to** "bridge deck repair." Contrary to Flatiron's position, separate scopes of work are not considered related simply because they are performed by the same subcontractor. Despite the fact that Flatiron included "and related" in its work description, High Friction Surface Treatment is a roadbed

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treatment process, not a "bridge deck" process; it is designed and specified by a separate Caltrans division than the bridge deck repair; it is governed by separate sections of the specifications than bridge deck repair; and, it involves altogether different tools, submittal requirements, and construction methods, than bridge deck repairs. The items of work are separate and are not related. Similarly, Bid Item 45 – Remove Concrete, is not related to "PCC Saw and Seal" simply because the separate work items may be performed by the same subcontractor, nor because one operation follows the next.

Flatiron has improperly enlarged subcontractor scopes of work after the submission of the initial subcontractor form submitted on the day of bid. By doing so, Flatiron has obtained an unfair advantage over other bidders and its bid must be rejected as non-responsive.

With respect to the DBE Commitment form, the Caltrans instruction specifically states that the bid day and post bid listing of First Tier DBE Subcontractors must be the same:

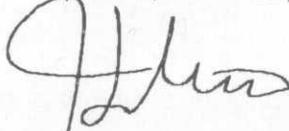
IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above **must be consistent**, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. (emphasis added.)

As detailed by Security Paving in its bid protest letter, the First Tier DBE Subcontractors listed by Flatiron on the DBE Commitment form **is not consistent with** the subcontractors identified on bid day. By submitting inconsistent First Tier DBE Subcontractor lists, Flatiron has obtained an unfair advantage over other bidders. Accordingly, Flatiron's bid is non-responsive and must be rejected.

Consistent with prior determinations, Caltrans' bidding instructions, and 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. 07-2881U4 to Security Paving, the lowest **responsive**, responsible bidder.

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: 11/22/14

To: John McMillan

Phone: (916) 227-6300

Company: Caltrans Office Engineer

Fax: (916) 227-6282

From: Joe Ferndino

Subject: 07-288144

REGARDING: Bid Protest

This cover page is 1 of 3 pages.

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

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

THANK YOU