

**HLE** | **HIGH-LIGHT  
ELECTRIC INC.**P.O. BOX 7339, RIVERSIDE, CA 92513 • [www.hleincusa.com](http://www.hleincusa.com)  
Physical Address: 6942 Ed Perkle St. Ste. A Riverside, CA 92504  
TEL (951) 352-9646 • FAX (951) 352-2498

August 5, 2015

Department of Transportation – Office Engineer  
Attn: John McMillan  
P.O. Box 168041  
MS-43  
Sacramento, CA 95816-8041Phone: 916.227.6229  
Fax: 916.227.6282**RE Caltrans Contract No. 07-293804  
Notice of Bid Protest**

Dear Mr. McMillan:

High Light Electric, Inc. ("HLE") hereby submits this letter to formally protest the apparent low bidder and the second apparent lowest bidder being awarded the above referenced contract based on the information posted in Caltrans website as of today. As set forth below, their bids were non responsive, and should be rejected. As such, HLE should be awarded the contract as the responsive low bidder.

**Steiny and Co., Inc.'s Bid Is Non-responsive and Should be Rejected**

Steiny and Co., Inc. ("Steiny") was the apparent low bidder. However their bid is non responsive and should be rejected on three separate and independent grounds.

**1. Improper Licensure of Subcontractor *Crosstown Data, Inc.***

Steiny has listed Crosstown Data, Inc. ("Crosstown") to perform 20% of the work required under item 3 "traffic control system." Crosstown does not possess the required license to perform that item of work (Class A or C-31). Their only license classification is C-10 (electrical contractor). As such, Steiny's bid does not fulfill the requirement to list duly licensed subcontractors to perform their work.

**2. Incorrect Scope Designation for Subcontractor *Crosstown Data, Inc.***

Steiny has listed Crosstown Data, Inc. ("Crosstown") to perform 20% of the work required under item 3 "traffic control system." Steiny has listed the item as "Modify Communication Systems (Fiber Optic)." Item #3 does not have any communications system work and was improperly classified. This error was not corrected by Steiny, and there is no nexus between traffic control or communication system work.

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3. Incorrect License Number of Subcontractor *EBS General Engineering, Inc.*

Steiny failed to list the correct license number for their subcontractor EBS General Engineering, Inc. ("EBS") anywhere in their bid, and failed to correct the number within 24 hours of submitting their bid. California Public Contract Code Section 4104(a)(1) requires a bidding contractor to list the license number of its subcontractors. Section 4104(a)(2) requires any error in listing the license number of a subcontractor to be corrected within 24 hours in order to be exempt from a bid protest. Here, Steiny did not list EBS' license number as A720016. The correct license number for EBS is 720016. Steiny did not correct their error, and as such their bid should be rejected as non-compliant and non-responsive.

By way of comparison, Caltrans has previously granted the Prime contractor relief when they correctly list the license number of a subcontractor somewhere in the bid, and correct their error within 24 hours. Please see Exhibit 1, a letter from Flatiron West, Inc. dated June 12, 2015 to Caltrans regarding Caltrans Contract No. 11-288814, and a mistake they made in listing their subcontractor, Coral Construction. At bullet point #2, Flatiron states "...Coral's contractor license and DIR registration was listed incorrectly. The correct license number for Coral is 332441..." On that bid, Flatiron inadvertently listed two separate license numbers (one correct and one incorrect) for Coral, and issued the letter to clarify and correct their mistake. A bid protest ensued, issued by OHL. On July 31, 2015, please see Exhibit 2, Caltrans rejected OHL's bid protest, stating that Flatiron's error is "immaterial since the information is provided elsewhere [correct license number for Coral] in the bid and can therefore be waived by Caltrans." Steiny's bid documents starkly contrast to Flatiron's. Caltrans cannot waive Steiny's defective number here, because the correct license number for EBS is not listed anywhere in the bid and Steiny did not correct the error. As such, Steiny's bid should be rejected.

**Crosstown Data, Inc.'s Bid Is Non-responsive and Should be Rejected**

Crosstown Data ("Crosstown") was the apparent second lowest bidder. However their bid is non-responsive and should be rejected on two separate and independent grounds.

1. Incorrect License Number of Subcontractors *Coral Construction* and *EBS General Engineering, Inc.*

Crosstown failed to list the correct license number for their subcontractors Coral Construction ("Coral") and EBS General Engineering, Inc. ("EBS") anywhere in their bid, and failed to correct the number within 24 hours of submitting their bid. Again, California Public Contract Code Section 4104(a)(1) requires a bidding

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contractor to list the license number of its subcontractors. Section 4104(a)(2) requires any error in listing the license number of a subcontractor to be corrected within 24 hours in order to be exempt from a bid protest. Here, as with Steiny, Crosstown did not list the correct license number for Coral or EBS. Crosstown incorrectly listed Coral's license number as 332441A two separate times. Coral's correct license number is 332441. Crosstown incorrectly listed EBS' license number as A720016-A. The correct license number for EBS is 720016. Crosstown did not correct their errors, and as such their bid should be rejected as non-compliant and non-responsive.

2. Improper Listing of Subcontractors *Coral Construction* and *Chris P [Chris] Construction* for greater than 100% of Items 19 (Remove Sing Panel) and 66 (mobilization) Performance

Crosstown improperly listed subcontractors to perform greater than 100% of the work required under items 19 "remove sign panel" and 66 "mobilization." As such, their bid should be rejected.

a. **Item 19: Remove Sign Panel**

Crosstown improperly listed two subcontractors to perform a total of 200% of item 19, "remove sign panel." Coral Construction is listed to perform 100% of the item, and Statewide Traffic Safety is listed to perform 100% of the item. Crosstown does not provide any further clarification as to their subcontractor's scopes. This is a blatant error which could result in a substantial windfall, and at best, confuse Caltrans personnel on what to pay for the item.

b. **Item 66: Mobilization**

Crosstown improperly listed two subcontractors to perform a total of 110% of item 66, "mobilization." Coral Construction is listed to perform 10% of the item, and Chris P [Chris] Construction is listed to perform 100% of the item. Crosstown does not provide any further clarification as to their subcontractor's scopes. This is also a blatant error which could result in a substantial windfall, and at best, confuse Caltrans personnel on what to pay for the item.

**No Clerical Error**

Neither Steiny nor Crosstown may assert a claim of inadvertent clerical error in their subcontractor listings because they did not notify Caltrans within two working days after the bid opening date. California Public Contracting Code Section 4107.5 states that "the prime contractor as a condition to

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assert a claim of inadvertent clerical error in the listing of a subcontractor shall within two working days after the time of the prime bid opening by the awarding authority give written notice to the awarding authority and copies of that notice to both the subcontractor he or she claims to have listed in error and the intended subcontractor who has bid to the prime contractor prior to bid opening." Here, the bid opened July 28, 2015, and neither Steiny nor Crosstown notified Caltrans that they had made a clerical error in listing their subcontractors. As such, their bids should be rejected as non-responsive and failing to satisfy the bidder requirements.

In conclusion, Steiny's and Crosstown's bids should be deemed non-responsive and rejected by Caltrans. The failures and omissions identified herein form multiple bases for rejecting their bids. The instructions to bidders must be strictly adhered to in order to ensure an equal playing field for all bidders. Any bidder who fails to satisfy the stated requirements and who does not comply with the public contracting code should be deemed non-responsive. HLE hereby requests that Caltrans award HLE the contract as the lowest responsive bidder.

Thank you for your time and consideration.

Sincerely,

**Erwin Mendoza**  
**President**

Enc: **Exhibit 1 – Flatiron's letter dated June 12, 2015 (1 page)**  
**Exhibit 2 – Department of Transportation dated July 31, 2015 (4 pages)**

EXHIBIT 1

Received

Jun 12 2016 02:13pm

**Build the Best. Be the Best.**

June 11, 2015

Department of Transportation  
Mr. John McMillan  
Office Engineer, MS43  
1727 30<sup>th</sup> Street  
Sacramento, CA 95818-7006  
(916) 227-6282

Flatiron West, Inc.  
1770 La Costa Highlands Drive  
San Marcos, CA 92078  
760.938.9100 MAIN  
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www.flatironwdrp.com

**Subject: Subcontractor List Form - Clerical Error**  
**Construction on State Highway in San Diego County in and Near San Diego at**  
**Route 11/126/905 Separation, Contract 11-288814**

Mr. McMillan:

In accordance with Public Contract Code 4107.5, Flatiron West, Inc. ("Flatiron") requests to assert a claim of inadvertent clerical errors on the Subcontractor List Form included with our bid on June 11, 2015 for the Construction on State Highway in San Diego County in and Near San Diego at Route 11/126/905 Separation, Contract 11-288814.

The following clerical errors were listed on our Subcontractor List Form:

- Subcontractor Field #13, #31 and #32: Coral Construction Company ("Coral") was duplicated in error on the Subcontractor List form. Coral was listed in Subcontractor Field #13 for Bid Items only without Bid Item Percentage or Description information. However, Coral was also listed in Subcontractor Field #31 and #32 with the complete Bid Item, Percentage and Description information.
- Subcontractor Field #31 and #32: Coral's contractor license and DIR registration was listed incorrectly. The correct license number for Coral is 332441 and the correct DIR registration number is 1000006888.
- Subcontractor Field #15: Southwest V-Ditch was listed for Bid Item 134 with an error in the Description of work "Ditch Excavation". Ditch Excavation is Bid Item 50 which is also included in Southwest V-Ditch's Bid Items. The correct Description of work for Bid Item 134 is "Slope Reving".
- Subcontractor Field #20: Bert W Salas Inc was listed for Bid Item 135 with a Percentage of 98%, however, the Description of work was omitted in error. The Description of work for Bid Item 135 is "RSP Filter Fabric."
- Subcontractor Field #45: Morales Contracting Services was listed for Bid Item 82 with an error in the Description of "Jointed Plain Concrete Pavement". The correct Description of work for Bid Item 82 is "Green Saw Jointed Plain Concrete Pavement".

Please let us know if you have any questions in regard to this matter.

Thank you.

Dale A. Najon  
Vice President  
FLATIRON WEST, INC.

08/05/2015 WED 14:41 Received  
FAX

Aug 5 2015 02:44pm

006/010

EXHIBIT 2

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER  
1727 30th STREET, MS-43  
P.O. BOX 168041  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6299  
FAX (916) 227-6282  
TTY 711  
www.dot.ca.gov



Serious Drought.  
Serious drought.  
Help save water!

July 31, 2015

Facsimile: (949) 291-1255

Ahmad Bagheri, Executive Vice President  
OHL USA, Inc.  
1920 Main Street  
Irvine, CA 92614

11-288814  
11-SD-11, 125, 905-Var  
B.O. 06/11/2015

Dear Mr. Bagheri:

The Department of Transportation (Caltrans) received the attached letter dated June 22, 2015, from OHL USA, Inc. (OHL), protesting bid documents submitted by Coffman Specialties, Inc. (Coffman) and Flatiron West, Inc. (Flatiron) for Contract 11-288814 on June 11, 2015. The protest alleges that both Coffman and Flatiron submitted bids with numerous inconsistencies and errors of such magnitude that both should be found nonresponsive. Specifically, OHL alleges Coffman failed to properly submit the Subcontractor List form. Coffman listed 13 items on its Subcontractor List form and failed to indicate the percentage of work to be performed for those items.

The protest further alleges that Flatiron listed Coral Construction Company (Coral) to Remove Sign Overlay, Furnish Sign Structure (Truss), Install Sign Structure (Truss), Install Sign Panel on Existing Sign Structure and Furnish Laminated Panel Sign, (bid items 36, 101, 102, 103, and 104), but failed to provide a description of work and percentage of work to be subcontracted. OHL contends that Flatiron attempted to extend its options by listing Coral again for the same bid items, but provided the description and percentages, but failed to utilize a valid license number. Flatiron listed Southwest V-Ditch (V-Ditch) for ditch excavation (bid item 134) and attempted to change the scope of work to Slope Paving (bid item 50). Additionally, Flatiron listed Morales Contracting Services (Morales) for Jointed Plain Concrete Pavement (bid item 82) and attempted to alter the scope to "Green Saw" Jointed Plain Concrete Pavement. Furthermore, Flatiron listed bid item 133 for 98%, but failed to list a description of work. OHL requests that Caltrans find both Coffman and Flatiron nonresponsive and award the contract to OHL.

Caltrans has reviewed the bid documents submitted by both Coffman and Flatiron and has determined the following:

In regards to the bid submitted by Coffman, Caltrans has already determined that the bid submitted by Coffman was nonresponsive.

EXHIBIT 2

Mr. A. Bagheri  
July 31, 2015  
Page 2

As this protest relates to the bid submitted by Flatiron, Caltrans has determined the following:

1. Caltrans confirms that Flatiron on its Subcontractor List form duplicated its listing for Coral Construction, by listing them as subcontractor number 13 and 31. For listing number 13, Flatiron identified bid items 96, 101, 102, 103 and 104. However, omitted the percentage of work to be performed, as well as the description of work subcontracted.

For listing subcontractor number 31, Flatiron identified the same bid items, and included the percentage of work to be performed. The percentage of work to be performed was provided for all bid items. The description of work was provided for all bid items with a percentage of work less than 100 percent. Caltrans has determined that this error is immaterial as it does not materially change the bid, and can therefore be waived by Caltrans.

The California Contractor License and California Department of Industrial Relations' Registration Number as listed for subcontractor number 13 were both valid for Coral Construction. Although the information for subcontractor number 31 was incorrect, the information listed for subcontractor 13 was correct. Caltrans has determined that this is immaterial since the information is provided elsewhere in the bid and can therefore be waived by Caltrans.

2. As the protest relates to Flatiron listing Morales to perform bid item 82 and listing the description of work as Jointed Plain Concrete Pavement instead of describing the portion of work as Green Saw as it was described on the DBE Commitment Form. Bid Item 82 is described on the Bid Item List that is part of the bid as Jointed Plain Concrete Pavement. Flatiron listed Morales as performing 3% of Bid Item 82. The fact that Flatiron provided a more detailed description of that work on the DBE Commitment Form as Green Saw Jointed Plain Concrete Pavement is an immaterial deviation. The quote submitted as part of the DBE Commitment for Morales establishes that Morales was only ever going to perform the Green Saw portion of Bid Item 82. The fact that Flatiron did not clarify this on the Subcontractor List form does not materially affect the bid.
3. As the protest relates to Flatiron failing to list a description for bid item 135 for Bert W. Salas, Caltrans find that the failure to list a description for 98% of bid item 135 is an immaterial deviation. The Bid Item List shows bid item 135 as Rock Slope Protection Fabric (Class B). The Bid Item List also shows a quantity of 360 SQYDs for an item total of \$2,284. Both the Subcontractor List and the DBE Commitment forms list Bert W. Salas as performing bid item 135. The quote submitted to Flatiron by Bert W. Salas lists bid item 135 Rock Slope Protection Fabric (Class B) for 340 SQYDs. Caltrans can therefore determine the scope of Bert W. Salas' contract. Therefore, Caltrans finds no material error in the absence of this description and this clerical error can therefore be waived by Caltrans.

Exhibit 2

Mr. A. Bagheri  
July 31, 2015  
Page 3

Caltrans finds OHL's protest does not have merit and will proceed to award the contract to the lowest responsible bidder.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,



JOHN C. McMILLAN  
Deputy Division Chief  
Office Engineer  
Division of Engineering Services

EXHIBIT 2

**\*\* Transmit Conf. Report \*\***

P.1  
CALTRANS CONTR AWARDS Fax 916-227-6282

Jul 31 2015 04:02pm

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STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

BOARD OF HIGHWAY ENGINEERS

DEPARTMENT OF TRANSPORTATION  
 DIVISION OF ENGINEERING SERVICES  
 OFFICE ENGINEER  
 1747 9th STREET, MS-43  
 P.O. BOX 180041  
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 PHONE (916) 227-6282  
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 www.dot.ca.gov



Explosive Or Highly Flammable Liquids Or Gases: Keep Away From Heat

July 31, 2015

Facsimile: (949) 231-1255

Almad Bagheri, Executive Vice President  
 OHL USA, Inc.  
 1920 Main Street  
 Irvine, CA 92614

11-288814  
 11-SD-11, 125, 905-Vir  
 B.O. 06/11/2015

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The protest further alleges that Flatiron listed Coral Construction Company (Coral) to Remove Sign Overlay, Fabric Sign Structure (Truss), Install Sign Structure (Truss), Install Sign Panel on Existing Sign Structure and Double Laminated Panel Sign, (bid items 36, 101, 102, 103, and 104), but failed to provide a description of work and percentage of work to be subcontracted. OHL contends that Flatiron attempted to extend its options by listing Coral again for the same bid items, but provided the description and percentages, but failed to utilize a valid license number. Flatiron listed Southwest V-Ditch (V-Ditch) for ditch excavation (bid item 134) and attempted to change the scope of work to Slope Fixing (bid item 50). Additionally, Flatiron listed Morales Contracting Services (Morales) for Jointed Plain Concrete Pavement (bid item 82) and attempted to alter the scope to "Grass Saw" Jointed Plain Concrete Pavement. Furthermore, Flatiron listed bid item 135 for 98%, but failed to list a description of work. OHL requests that Caltrans find both Coffman and Flatiron nonresponsive and award the contract to OHL.

Caltrans has reviewed the bid documents submitted by both Coffman and Flatiron and has determined the following:

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