

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

P.O. BOX 168041, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov



*Serious drought.  
Help save water!*

September 10, 2014

Facsimile: (951) 788-2449

Tim Wilson, Vice President  
Skanska USA Civil West CA District  
1995 Agua Mansa Road  
Riverside, CA 92509-2405

08-3401U4  
08-SBd-2, 138-6.2/6.4,2.3/R15.2  
B.O. 07/24/2014

Dear Mr. Wilson:

The Department of Transportation (Caltrans) received the attached letter dated August 13, 2014, from Skanska USA Civil West California District (Skanska), protesting the Subcontractor List form submitted by Flatiron/Hardy Harper A Joint Venture (Flatiron/Hardy). The protest alleges that Flatiron/Hardy failed to comply with the Caltrans Subcontractor Listing Requirements by revising the 24 hour Subcontractor List form. Specifically, Skanska argues that Flatiron/Hardy listed the description of work as Cold Plane AC and Related on the Subcontractor List form submitted on bid day but on the 24 hour listing, added bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip), neither of which are related to the description of Cold Plane AC and Related (Partial). Skanska requests that Caltrans find Flatiron/Hardy nonresponsive and award the contract to Skanska.

Caltrans reviewed the bid documents submitted by Flatiron/Hardy. The description of subcontracted work was described as "*Cold Plane AC and Related*" is considered responsive. When the description of work at time of bid corresponds to the items listed on the 24 hour submittal, and a nexus is found between those bid item numbers and the work described, the bid is responsive. In this case, it is the determination of Caltrans that bid items 49 (Remove Asphalt Concrete Surfacing) and 99 (Rumble Strip) sufficiently correspond or are related to the work described as Cold Plane AC and Related (Partial).

Caltrans finds Skanska'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,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

~~Attachment~~



**Skanska USA Civil West  
California District Inc.**

**Estimating Department**

1995 Agua Mansa Road  
Riverside, CA 92509-2405

Phone 951 684 5360

Fax 951 788 2449

Web [www.skanska.com](http://www.skanska.com)

August 13, 2014

By Facsimile and Certified Mail

08-18-14 10:18 IN

John C. McMillan  
Department of Transportation  
Division of Engineering Services  
Office Engineer  
1727 30<sup>th</sup> Street  
Sacramento, Ca. 95816-8041

Reference: Contract 08-3401U4  
Construction of State Highway in San Bernardino County on Route 138

Subject: Letter of Protest:- Non- Responsive Bidder Flatiron/Hardy & Harper A Joint Venture

Dear Mr. McMillan

Please consider this letter as Skanska USA Civil West California District Inc.'s formal protest against the bid submitted by Flatiron/Hardy & Harper A Joint Venture for failure to comply with the Caltrans Subcontractor Listing requirements and California Public Contract Code Section 4104. The bid submitted by Flatiron/Hardy & Harper did not comply with the Caltrans Subcontractor Listing Requirements which in part state,....."Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid."

The Caltrans Subcontractor List submitted at bid time (July 24, 2014) by Flatiron/Hardy&Harper listed Pavement Recycling to perform the work description of "Cold Plane AC and Related(Partial)". (See Attachment 1).

The subsequent Subcontractor List submitted on July 25, 2014 listed Pavement Recycling to perform the work items as follows (See Attachment#2):

Column 1:	Column 2:	Column 3:	Column 4:
Business Name and Location	Item Nos.	% of Bid Item Subcont.	Subcontracted Work
<b>Pavement Recycling</b>	<b>49</b>	<b>98%</b>	<b>Cold Plane AC and Related (Partial)</b>
<b>Jurupa, CA</b>	<b>61</b>	<b>98%</b>	
	<b>99</b>	<b>98%</b>	

The Subcontractor list form submitted on July 25, 2015 added **bid item 49 Remove Asphalt Concrete Surfacing and bid item 99 Rumble Strip.**

The addition of these two descriptions of work is a clear revision/addition from the form originally submitted on July 24, 2014. Therefore, the bid submitted by Flatiron/Hardy & Harper must be deemed nonresponsive for violating the Caltrans subcontract listing requirements and the California Public Contract Code Section 4104.

Caltrans has recently deemed various bids nonresponsive for similar subcontractor listing violations. Please reference the following Caltrans nonresponsive letters:

Attachment #3: Contract 08-0C1214

Attachment #4: Contract 02-2E5104

Attachment #5: Contract 04-3A23U4

In addition, Rumble Strip is not related to the item of work description "Cold Plane AC". Rumble Strip is a totally separate item of work with separate specifications and quantity tables(See Attachment#6). Rumble Strip is a permanent work not related to temporary work such as cold plane asphalt. Rumble strip is not performed in conjunction with cold plane asphalt and therefore should not be considered related to cold plane asphalt.

Furthermore, Rumble strip is commonly listed as a separate work description as referenced in the following Attachments:

Attachment # 7- Contract 08-0K2704 Bid Summary and Sub Listing

Attachment #8- Contract 08-0C1214 Bid Summary and Sub Listing

Attachment #9- Contract 08-0K2604 Bid Summary and Sub Listing

In closing, given the precedence that has been set forth by Caltrans and the obvious revisions made to the sub listing form submitted, we respectfully request that the bid submitted by Flatiron/Hardy & Harper be deemed nonresponsive and the contract be awarded to the lowest responsible bidder Skanska USA West California District, Inc.

If you have any questions, or need additional information please contact me at (951) 684-5360.

Sincerely,

Tim Wilson

A handwritten signature in black ink, appearing to read 'Tim Wilson', written in a cursive style.

Skanska USA Civil West California District, Inc.  
Vice President District Manager

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

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

Sep 10 2014 04:22pm

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr. Governor

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Sincerely,

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

~~Attachment~~