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November 6, 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") letter dated November 5, 2014. Notwithstanding its unprofessional tone, Security's latest letter raises no issues of substance, and, as set forth in Flatiron's November 3, 2014 letter, Security's bid protest must be rejected. Flatiron's bid is in compliance with both the Subletting and Subcontracting Fair Practices Act, California Public Contract Code section 4100 et. seq., (the "Act"), and Caltrans' bidding requirements. While Flatiron will not respond to the many inaccuracies and mischaracterizations in Security's letter, Flatiron highlights the following:

A. Flatiron's Listing of ACC

First, Security's suggestion that Flatiron's position is that because Security listed ACC for the same scopes of work as Flatiron, the work is related, is not Flatiron's point. Of course this is evidence that both Flatiron and Security bid these scopes similarly and that the work is logically related. However, Flatiron's main point is that Flatiron's bid-day description "Bridge Deck Repair and Related (Partial)" is correct and does include Bid Item 111 (HFST) work. Flatiron did not change or add scope; Flatiron's listing of "Bridge Deck Repair and Related (Partial)" is correct and consistent with its 24-hour submission. Bid Item 111 is for High Friction Surface Treatment ("HFST") to certain concrete surfaces. HFST is directly related to Concrete Surface repair pursuant to Specification 37-6.01A, which provides "placing High Friction Surface Treatment (HFST) on either Asphalt Concrete or Portland Cement Concrete Surfaces." This specification is not limited to "roadway" surfaces as argued by Security. Specification 37-6 applies to "surfaces" for asphalt or concrete and in fact never refers to "roadbed." Further, this specification is under Division 5, Surfacing and Pavements. The HFST is applied to concrete surfaces, including the bridge structures (Tunnels; See Exhibit "D," [Bridge 53-2256 and Bridge 53-2341] Flatiron's November 3, 2014 letter) and is work performed by the same subcontractor (ACC). Flatiron's description of ACC's work is in compliance with the Act and Caltran's listing requirements.

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B. Flatiron's Listing of MCS

With respect to Flatiron's listing of Morales Contracting Services ("MCS"), Security, again, falsely characterizes the bid items included in the scope of work "PCC Saw and Seal and Related (Partial)" as vastly different, such that Bid Item 45 cannot be considered related. This is false. Before constructing new concrete lanes, the first order of work is to sawcut and remove existing concrete under Bid Item 45. MCS will sawcut the edge of the existing concrete pavement in conjunction with the concrete pavement removal operation. Bid Item 45 clearly fits under the description of PCC Saw & Seal and Related (Partial)" as MCS will perform sawcutting to PCC pavement. Again, Flatiron's description of MCS's work is in compliance with the Act and Caltran's listing requirements. Security's contention that Flatiron is changing scope or adding scope is false; Flatiron's listing of MCS's scope of work as "PCC Saw and Seal and Related (Partial)" properly includes Bid Item 45.

C. DBE Commitment Form

In its efforts to procure this project, Security falsely claims 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.

Last, Security's continued reference to prior unrelated projects and bid protests is of no value. Like its prior references, the O.C. Jones bid protest reference is inapposite. This protest was based upon both a lack of the phrase "and Related," and, more importantly, a finding that the scope of work listed after bid day was actually not related to the bid day scope. In other works, unrelated scope (Imported Biofiltration Soil was added to the Bid Day scope listing of AC Paving and Cold Planing). As discussed above (and its November 3, 2014 letter), both the ACC and MCS bid day listings by Flatiron were consistent with and related to the post-bid day submission.

Security's protest has no merit and should be rejected. Therefore, 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 cpelch@flatironcorp.com.

Thank you.

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

Christian M. Peich
Vice President
Flatiron West, Inc.