

FLAT TOP GRADING, INC.

General Engineering Construction

CA No. 942451 • NV No. 50626

P.O. Box 161 • Montague, CA 96064
Phone: 530-459-3956 • Fax: 530-459-3976

April 15, 2013

Mr. John McMillan
Department of Transportation
Deputy Division Chief
Office Engineer, MS43
Division of Engineering Services
1727 30th Street
Sacramento, CA 95816-8041

VIA FACSIMILE TO: (916) 227-6282

Reference: Caltrans Contract 02-4E5204
Bid Opening: March 19, 2013

Dear Mr. McMillan:

Following application of the small business preference, Flat Top Grading, Inc. is the apparent low bidder for the reference project. Knife River Construction, the third low bidder, submitted a bid protest dated April 4, 2013, attached, stating that Flat Top Grading made material changes to the subcontractor listing.

Flat Top Grading disputes the basis of the Knife River protest. Flat Top Grading accepted a subcontractor proposal from Darren Taylor Construction for the asphalt paving items prior to the time of bid and incorporated the proposal into the bid submitted to Caltrans. Flat Top Grading listed Darren Taylor Construction on the initial subcontractor listing at the time of bid and listed the description of subcontracted work in column four of the form as "AC Paving and Cold Plane AC" which is the appropriate description of the scope of work subcontracted.

Knife River's protest claiming a material change to the subcontractor listing is without merit. The important question is simple, did Flat Top Grading modify, in any way, the scope of work to be subcontracted after the time of bid? The answer is no. Flat Top Grading incorporated the entire Darren Taylor Construction proposal into the bid submitted to Caltrans. The proposal included the traffic control required to support the AC Paving work, shoulder backing, and tack coat as components of AC Paving and cold planning.

Flat Top Grading carefully prepared the bid to Caltrans, and in doing so relied on the following documents: Caltrans Standard Specifications 2010 edition, the Project Special Provisions, and the Caltrans document, *Construction Contracting with Caltrans – How to Submit a Responsive Bid, March 2010 edition*. Flat Top Grading did not include a list of the bid items to be subcontracted in Column four of the Subcontractor List because that is not what was asked for.

Flat Top Grading is fully prepared to present the subcontractor proposals relied upon at bid time which clearly show there was no modification of subcontracted work.

John McMillan
April 15, 2013
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Flat Top Grading respectfully requests that Caltrans reject the Knife River protest and award the contract to the apparent low bidder, Flat Top Grading.

Please contact me at the above number if you have any questions or comments.

Sincerely,


Thomas R. Patton
President

enclosure

c: file

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2 (REV 3/2011)

Bidder Name: FLAT TOP GRADING

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
CONVERSE CONSTRUCTION 20563 SUNSET LANE REDDING, CA 96049	43	100 %	LICATING
DARREN TAYLOR CONST. 5750 PLEASANT VIEW DR ANDERSON, CA 96007	3 15 18 23 24 25	59 % 100 % 100 % 100 % 100 % 100 %	AC PAVING + COLD PLANE AC
APPLY - A - LINE, INC 19652 N. HIRSCH CT ANDERSON, CA 96007	40 41 42	100 % 100 % 100 %	STRIPING + PAVEMENT MARKERS

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**NORTHERN CALIFORNIA DIVISION - CHICO**

1784 Skyway
Chico, CA 95928
(530) 891-6555
(530) 894-6220 FAX

April 4, 2013

SENT VIA FAX 916-227-6282

John C. McMillan, Deputy Division Chief
Office of Engineer, Division of Engineering Services
Department of Transportation
1727 30th St.
Sacramento, CA 95282
916-227-6280
916-227-6282 Fax

RE: **BID PROTEST**
Caltrans Contract Number 02-4E5204
Bid Date: March 19, 2013

Mr. McMillan,

In regard to above referenced project please accept this as Knife River Construction's (KRC) formal Bid Protest of both Flat Top Grading, Inc. (Flat Top) and Tullis, Inc. (Tullis).

Flat Top added items of work on their 24 hour sub list which were not on the sub list submitted with their bid. On the day of bid Flat Top listed Darren Taylor Const. for AC Paving and Cold Plane AC only. On the Subcontractor listing after bid Flat Top added several items, No. 3-Traffic Control, No. 18-Shoulder Backing, No. 23-Replace Asphalt Concrete Surfacing and No. 25-Tack Coat.

Tullis submitted their Certified Small Business Listing for the Non-Small Business Preference using Titan DVBE. Titan DVBE was not a Certified Small Business on the day of bid and their application has been rejected.

In summary Flat Top made material changes to the sub listing and Tullis should not get credit for the Non-Small Business Preference. Please take this Bid Protest into consideration. Should you have any questions please call Andy Lanier at 530-891-6555.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Lanier".

Richard A. Lanier
Estimating Manager
Knife River Construction

FLAT TOP GRADING, INC

P.O. Box 161
Montague, CA 96064
Phone: 530 459 3956
Fax: 530 459 3976
CA No. 942451

Fax

To: Calif. Dept of Transportation

From: Tom Patton

Fax: 916 227-6282

Pages: 5

Attn: 02-4E5204

Date: April 15, 2013

Re: Bid Protest Response

CC:

Urgent **For Review** **Please Comment** **Please Reply**