

**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

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*Serious drought.  
Help save water!*

July 11, 2014

Facsimile: (661) 367-9097

Eric Landegger, Chief Estimator  
C.A. Rasmussen, Inc.  
28548 Livingston Avenue  
Valencia, CA 91355

07-295604  
07-LA-5-19.2/28.9  
B.O. 06/26/14

Dear Mr. Landegger:

The Department of Transportation (Caltrans) received the attached letter dated July 10, 2014, from Security Paving Company, Inc. (Security), protesting C.A. Rasmussen, Inc's (C.A. Rasmussen) bid. The protest alleges that C.A. Rasmussen failed to comply with Caltrans' mandatory requirements for subcontractor listing and that they made impermissible changes to the subcontractor listing information in regards to Bid Items 17, 24, 28, 51, 52, 60, 92 and 93.

Please provide your response to Security's protest no later than July 18, 2014.

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".

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

Attachment

GENERAL CONTRACTOR  
LICENSE NO. 116307 A C12  
FAX: 818.362.9300

# SECURITY PAVING COMPANY, INC.

13170 TELFAIR AVEN  
SYLMAR, CA 912  
TEL. 818.362.92

John McMillan, Deputy Division Chief  
State of California Department of Transportation  
Division of Engineering Services,  
Office of Engineer, MS 43  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-8041

**Re: Contract No. 07-295604**  
**07-LA-5-19.2/28.9**  
**Bid Protest of C.A. Rasmussen, Inc.**  
**Lowest Responsive Bidder: Security Paving Company, Inc.**  
**Non-Responsive Bidder: C.A. Rasmussen, Inc.**

Dear Mr. McMillan:

In accordance with the California Department of Transportation ("Caltrans") contract bid protest procedures and the California Public Contract Code, please accept this letter as Security Paving Company, Inc.'s ("Security Paving") formal protest against the bid submitted by C.A. Rasmussen, Inc. ("Rasmussen") for Caltrans Contract No. 07-295604.

The bid from Rasmussen must be rejected as non-responsive for violation of the Subletting and Subcontracting Fair Practices Act (*California Public Contract Code* section 4100 *et. seq.*) (the "Act"). As demonstrated in more detail below, Rasmussen's bid fails to comply with Caltrans' mandatory requirements for subcontractor listing. In particular, Rasmussen made impermissible changes to subcontractor listing information provided with respect to a number of subcontractors. By making these changes without following the procedures in the Act, Rasmussen rendered its bid non-responsive. Moreover, California law precludes waiver of the subcontractor-listing defect because, by altering the initially subcontracted scope of work, Rasmussen's bid defect could have affected the amount of its bid or given Rasmussen a competitive advantage.

Accordingly, Rasmussen's bid must be rejected as non-responsive and Security Paving respectfully requests Caltrans award it the project as the lowest responsive bidder.

### Subcontractor Listing Requirements:

Caltrans' Subcontractor List form states in part, "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 non-responsive bid." No other revisions to the form are permitted. In other words, the

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instructions on Caltrans' subcontractor listing form, an essential part of the bid documents, mandates that a failure to comply with these instructions renders a bid non-responsive. Rasmussen failed to properly submit the Subcontractor List in at least three ways:

**1. Impermissible changes to subcontractor listing information provided with respect to Crown Fence.**

Rasmussen's Bid Day Subcontractor List and 24 Hour Submittal with respect to Crown Fence are materially inconsistent. On bid day, Rasmussen identified Crown Fence's subcontractor work in Column 4 as "Guardrail, Fence & Related - Portion." However, in its 24 Hour Submittal, Rasmussen impermissibly expanded the scope of work it intended to subcontract to Crown Fence to include 86.9% of Bid Item No. 92 "Crash Cushion (Type SCI-70GM)" and 89.2% of Bid Item No. 93 "Alternative Crash Cushion."

The crash cushion on this project is not associated with any "Guardrail" or "Fence." These items are for crash cushions at concrete barriers and have nothing to do with "Guardrail" or "Fence," as was identified by Rasmussen as Crown Fence's scope of work. As such, Rasmussen impermissibly expanded the scope of Crown Fence's subcontractor work between its Bid Day Subcontractor List and its 24 Hour Submittal.

**2. Impermissible changes to subcontractor listing information provided with respect to Cindy Trump.**

Rasmussen's Bid Day Subcontractor List and 24 Hour Submittal with respect to Cindy Trump are materially inconsistent. On bid day, Rasmussen identified Cindy Trump's subcontractor work in Column 4 as "Coldmill." However, in its 24 Hour Submittal, Rasmussen impermissibly expanded the scope of work it intended to subcontract to Cindy Trump to include 100% of Bid Item No. 24 "Remove Concrete Asphalt Dyke."

The removal of the concrete asphalt dyke is not related to "Coldmill," or Bid Item No. 28 "Cold Plane Asphalt Concrete Pavement" as was originally intended to be the extent of Cindy Trump's work. Rasmussen's addition of Bid Item No. 24 "Remove Concrete Asphalt Dyke" impermissibly expanded the scope of Cindy Trump's subcontractor work between Rasmussen's Bid Day Subcontractor List and 24 Hour Submittal.

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### **3. Impermissible changes to subcontractor listing information provided with respect to FBD Vanguard Construction, Inc.**

Rasmussen's Bid Day Subcontractor List and 24 Hour Submittal with respect to FBD Vanguard Construction, Inc. ("FBD" Vanguard") are materially inconsistent. On bid day, Rasmussen identified FBD Vanguard's subcontractor work in Column 4 as "JPCP (RSC), Slab Replacement, Spall Repair, Barrier Rail, Minor Concrete (Minor Structures), Remove Conc. Pavement & Base, Traffic Control & Related - Portion." However, in its 24 Hour Submittal, Rasmussen impermissibly expanded the scope of work it intended to subcontract to FBD Vanguard to include 50% of Bid Item No. 17 "Temporary Concrete Washout," 97.1% of Bid Item No. 51 "Alternate Treated Base," 95.2% of Bid Item No. 52 "Replace Base," and 100% of Bid Item No. 60 "Drill and Bond (Dowel Bar)."

It is clear that "Alternate Treated Base" and "Replace Base" are simply unrelated to "Remove Conc. Pavement & Base." Additionally, it is clear from the Project's plans and specifications that "Drill and Bond (Dowel Bar)" and "Temporary Concrete Washout" are unrelated to the scope of work originally identified by FBD Vanguard in its bid day subcontractor list. As such, Rasmussen's addition of Bid Item Nos. 17, 51, 52, and 60 impermissibly expanded the scope of FBD Vanguard's subcontractor work between Rasmussen's Bid Day Subcontractor List and 24 Hour Submittal.

### **Caltrans Enforcement of Subcontractor List Requirements:**

As demonstrated above, Rasmussen made impermissible material changes to its subcontractor listing information provided in Bid Day Subcontractor List and 24 Hour Submittal. Caltrans has strictly interpreted and firmly enforced its subcontractor listing requirements. Caltrans recently determined that a bid submitted by Bay Cities Paving and Grading Inc. on Contract No. 10-0A8404 was non-responsive because Bay Cities included bid items in Column 2 which did not match up with the description given in Column 4. Similarly, Caltrans rejected bids by Synergy Project Management, Inc. on Contract No. 04-264134 and George Reed, Inc. on Contract No. 10-0A8724 because the bid item numbers in Column 2 of their Subcontractor Lists did not correspond with the description of the subcontracted work in Column 4.

### **Conclusion:**

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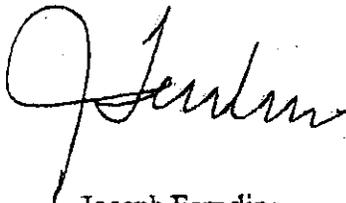
13170 TELFAIR AVEN  
SYLMAR, CA 91  
TEL. 818.362.9

The purpose of the Act is to provide fair competitive bidding and to prevent bid shopping and bid peddling after the submission of the Bid Day Subcontractor List. Allowing such violations of the Act leaves open the opportunity for a prime contractor to take advantage of a lack of enforcement and is the reason the Act should be strictly enforced.

In light of the above, Security Paving respectfully asserts that Caltrans should find Rasmussen's bid to be non-responsive and disqualify its bid, and award the subject contract to Security Paving as the lowest responsive bidder.

Should you have any questions regarding the above, please do not hesitate to contact the undersigned.

Thank you,



Joseph Ferndino  
V. P. Security Paving Co. Inc

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**SUBCONTRACTOR LIST**

DES-05-0102.2 (REV 3/2011)

Bidder Name: C.A. Rasmussen, Inc.

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) 227-6262 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
CINDY TRUMP INC. P.O. BOX 385 LA HABRA, CA 90631	24	100.0%	COLDMILL - PORTION
	28	38.6%	
TRAFFIC LOOPS CRACKFILLING, INC. 946 S. EMERALD ST. ANAHEIM, CA 92804	108	100.0%	ELECTRICAL - PORTION
	109	99.7%	
HARBER COMPANIES, INC. 1800 E. RIVERVIEW DR. SAN BERNARDINO, CA 92408	63	97.8%	GRIND PCC - PORTION
CROWN FENCE 12118 BLOOMFIELD AVE. SANTA FE SPRINGS, CA 90670	19	92.3%	GUARDRAIL, FENCE & RELATED - PORTION
	20	100.0%	
	81	94.6%	
	82	100.0%	
	84	100.0%	
	85	100.0%	
	86	100.0%	
	87	100.0%	
	88	99.4%	
	89	97.1%	
	90	96.6%	
	91	100.0%	
92	86.9%		
93	89.2%		

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
 DES-DE-01022 (REV 3/2011)

Bidder Name: C.A. Rasmussen, Inc.

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
MARINA LANDSCAPE, INC. 1900 S. LEWIS RD. ANAHEIM, CA 92805	21	100.0%	LANDSCAPE, IRRIGATION & RELATED - PORTION
	33	100.0%	
	34	98.3%	
	35	100.0%	
	36	100.0%	
	37	100.0%	
	38	100.0%	
	39	100.0%	
	40	100.0%	
	41	96.7%	
	42	100.0%	
	43	100.0%	
	44	100.0%	
	45	100.0%	
	46	100.0%	
CORAL CONSTRUCTION CO. P.O. BOX 347 WILSONVILLE, OR 97070	64	92.0%	OVERHEAD SIGNS & RELATED - PORTION
	66	96.8%	
	67	100.0%	
	68	98.9%	
	69	97.2%	
	74	97.1%	
	112	1.1%	

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## STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**SUBCONTRACTOR LIST**

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CAL STRIPE, INC. 2040 E. STEEL RD. COLTON, CA 92324	1	12.5%	STRIPING, LEAD PLAN, TRAFFIC CONTROL FOR STRIPING & RELATED - PORTION
	5	2.5%	
	18	100.0%	
	100	100.0%	
	101	100.0%	
	102	100.0%	
	103	100.0%	
	104	100.0%	
	105	100.0%	
	106	100.0%	
	107	100.0%	
	111	100.0%	
	112	2.0%	
FBD VANGUARD CONSTRUCTION, INC. 651 ENTERPRISE CT. LIVERMORE, CA 94550	5	35.8%	JPCP (RSC), SLAB REPLACEMENT, SPALL REPAIR, BARRIER RAIL, MINOR CONCRETE (MINOR STRUCTURES), REMOVE CONC. PAVEMENT & BASE, TRAFFIC CONTROL & RELATED - PORTION
	17	50.0%	
	25	96.3%	
	51	97.1%	
	52	95.2%	
	59	95.3%	
	60	100.0%	
	61	95.9%	
	62	93.3%	
	65	94.7%	
	94	95.6%	
	95	94.2%	
	96	97.3%	
	97	96.1%	
	98	94.4%	
99	94.9%		
	112	1.9%	

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Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Cindy Trump Inc. 625 W. Mountain View La Habra, CA 90631			Coldmill (portion)
Traffic Loops Crack Filling 946 S. Emerald Anaheim, CA 92804			Electrical (portion)
Harber Companies 1880 E. RiverView San Bernardino, CA 92408			Grind PCC (portion)
Crown Fence 12118 Bloomfield Santa Fe Springs, CA 90670			Guard rail, fence & Related (portion)

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JT

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Marina Landscape 1900 S. Lewis Anaheim, CA 92805			Landscape, irrigation & Related (portion)
Coral Const. PO Box 347 Willsonville, OR 97070			Over head Signs & Related (portion)
Cal - Stripe 2040 E. Steele Colton, CA 92324			Striping, Lead Plav Traffic Control for Striping & Related (portion)
FBD Vanguard Const. 657 Enterprise Ct. Livermore, CA 94550			JCPC (RSC), Slab Replace Spall Repair, Barrier Rail minor Concrete (minor Structures), Remove Concl Pavement & Base, Traffic Control & Related (por.

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JT

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

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

Jul 11 2014 03:46pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
916613679097	Normal	11:03:44pm	2'52"	10	* O K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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