

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

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Making Conservation  
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February 7, 2025

Email: joe@securitypaving.com

Joseph Ferndino, Vice President  
Security Paving Company, Inc.  
3075 Townsgate Rd. STE 200  
Westlake Village, CA 91361

12-0R32U4  
12-Ora-55-0.2/R17.8  
B.O. 1/7/2025

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Dear Mr. Ferndino:

The Department of Transportation (Caltrans) received a letter dated January 14, 2025 from Security Paving Company, Inc. (Security Paving) protesting the bid submitted by R.J. Noble Company (RJ Noble) for the above-referenced Federal-Aid contract. Security Paving alleges RJ Noble failed to adequately provide descriptions for the work to be completed by Dees Burke Engineering Constructors (Dees Burke) for bid items 174, 182, 183, 185-189, and 225, as evidenced by its post-bid DBE quote submittal. Security Paving's protest also alleges that Security Paving's bid violates Standard Specification Section 2-1.10 by listing more than one subcontractor for the same portion of work (namely, Dees Burke and DRS Rebar, Inc. (DRS) for "concrete barrier"). Finally, Security Paving claims that RJ Noble did not present the CSLB and DIR licensing numbers for DRS in a timely manner, which would result in a competitive advantage if "disregarded as a minor bid irregularity." Security Paving claims that RJ Noble's bid should be found nonresponsive for each of these reasons. Caltrans has reviewed Security Paving's protest letter and RJ Noble's bid documents and finds as follows.

Caltrans refers Security Paving to Section 2-1.10 of the Standard Specifications, which states in part:

"On the Subcontractor List form, list each subcontractor that will perform 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.). For each subcontractor listed, the Subcontractor List form must show: [...]

4. Portion of work it will perform. Show the portion of the work by:
  - 4.1. Bid item numbers for the subcontracted work
  - 4.2. Percentage of the subcontracted work for each bid item listed
  - 4.3. Description of the subcontracted work if the percentage of the bid item listed is less than 100 percent."

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Caltrans accepts RJ Noble's corresponding bid item description for bid items 174, 182, 183, 185-189, and 225, as they satisfy Section 2-1.10. The descriptions represent a sufficient commitment pursuant to the terms and conditions of the above-referenced contract and the governing legal authorities. A bidder's slightly differing (and still consistent) descriptions on DBE documentation does not amount to evidence of making said bidder's bid-time commitment "ambiguous."

Caltrans also finds that RJ Noble's respective Subcontractor listings for Dees Burke and DRS are adequate with respect to the description of "concrete barrier" for various bid items. Each bid item description is accompanied with a percentage of said bid item that each subcontractor is listed to perform. The fact that the same description was used across several bid items, by itself, is not evidence of a violation of Public Contract Code (PCC) Section 4106, as RJ Noble's bid clearly and adequately demonstrates that Dees Burke and DRS are listed to perform distinct elements of work. Caltrans further notes that even if RJ Noble listed these two subcontractors as performing the same scope of work, it would not automatically result in a nonresponsive bid. pursuant to PCC Section 4106, RJ Noble would simply be required to self-perform the offending bid items.

With regards to RJ Noble's alleged failure to list Department of Industrial Relations (DIR) or Contractors State License Board (CSLB) numbers for DRS in its Subcontractor List form, Caltrans finds that this amounts to an immaterial deviation from the bidding requirements. Caltrans conducts a search on CSLB's and DIR's respective webpages to confirm the license(s) and registration status of the subcontractors listed on a bidder's Subcontractor List form. Caltrans finds this deviation to be immaterial, as it would not grant RJ Noble a competitive advantage over other bidders. Given the specific circumstances surrounding RJ Noble's bid, Caltrans would waive any such immaterial deviation from the bidding requirements. As such, Caltrans finds that this specific immaterial deviation will will not impact RJ Noble's bid responsiveness.

Caltrans notes that while Security Paving claims that these protested issues would result in competitive advantages over other bidders if waived, Security Paving failed to provide any evidence or reasoning in support of this claim.

"[Bid protests] must be evaluated from a practical rather than a hypothetical standpoint, with reference to the factual circumstances of the case. They must also be viewed in light of the public interest, rather than the private interest of a disappointed bidder. It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal or license application of the low bidder after the fact, [and] cancel the low bid on minor technicalities, with the hope of securing acceptance of his, a higher bid. Such construction would be adverse to the best interests of the public and contrary to public policy." MCM Const., Inc. v. City & Cnty. of San Francisco, 66 Cal. App. 4th 359, 370, (1998) (citations omitted).

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Based on the above, Caltrans finds that Security Paving's protest is without merit and will proceed to award the contract to the lowest responsive and responsible bidder.

If you have any questions, please contact Juan Loera, Contract Awards Branch Chief at (916) 227-5964.

Sincerely,

*April Perez-Hollins*

April Perez-Hollins  
Office Chief  
Construction Contract Awards  
Program/Project Management & Office Engineer  
Division of Engineering Services