



March 15, 2017

SENT VIA EMAIL AND FEDEX DELIVERY

Steven A. Francis
Flatiron West, Inc.
2100 Goodyear Road
Benicia, CA 94510

**Subject: Initial Determination of Non-responsiveness for
Primary Treatment Facility Package 2 (#PW16-28)**

Dear Mr. Francis:

The City received your bid for the Primary Treatment Facility Package 2 on Wednesday, March 1, 2017. The City has spent considerable time reviewing the bids in detail and we have initially determined that your bid is non-responsive on the following grounds:

1. INVITATION FOR BIDS ("IFB") #PW16-28, Section 00460, page 00460-2

In order to be considered responsive, the bidder "must have completed at least \$250 million in construction volume over the past 5 years...and must list at least \$250 million in construction volume on no more than five (5) and not less than three (3) projects completed within the last five (5) years" of the following types:

1. Water/Wastewater Treatment Plant Facility where the electrical, mechanical and instrumentation systems were part of the Contractor's contract.

Additionally, Addendum #2 issued on January 25, 2017, clarified that:

"The City prefers Contractors and Electrical Subcontractors whose experience meets the requirements as established in the bid specifications. However, the City will consider deviations from the number of projects and/or construction volume requirements, provided that the Bidder's qualifications *substantially meet the experience requirements as indicated in Specification Sections 00460 and 00461*. With regard to the number of projects completed within the stated timeframe of five (5) years, the City will consider dates of 'substantial' and/or 'final' completion."

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TDD (408) 730-7501

City Conclusion

On its face, the submitted bid does not present the experience requirements as outlined in the bid documents and as clarified in Addendum #2. Specifically, Flatiron West Inc. presented three projects that were completed or substantially completed within the last five years, with a total construction volume of \$71,364,653. While these projects meet the threshold for the minimum number of three, they fall well below the construction volume requirement of \$250 million.

The additional projects that Flatiron presented for the experience requirement were completed or substantially completed more than 7 years ago and cannot be considered by the City as part of the experience requirement since that falls outside the spectrum of what the City would consider "substantial compliance" with the requisite 5-year experience period.

As a secondary factor, for Projects 5 and 6 (which were completed 8 and 8-1/2 years ago respectively) you have listed work performed by E.E. Cruz, which is referred to as a subsidiary. However, it is unclear whether the relationship between Flatiron and E.E. Cruz existed at the time the referenced projects were completed in 2008 and 2009. Nonetheless, since those projects were too far in the past the City cannot consider them as part of the experience requirement.

We have not made our initial decision lightly. However, we feel that it is in the City's best interests to adhere to the bid requirements as written in order to be fair and equitable to all the potential bidders.

If you have any additional information pertaining to the issue of non-responsiveness, please submit the information either electronically or via overnight mail to my office by 5:00 p.m. Wednesday, March 22, 2016.

If you have any questions please do not hesitate to contact me at (408) 730-7418.

Best regards,



Pete Gonda
Purchasing Officer
City Hall Annex
650 West Olive Avenue
Sunnyvale, CA 94086

cc: Kent Steffens, Assistant City Manager
Manuel Pineda, Director of Public Works
Office of the City Attorney
C. Overaa & Company