

February 28, 2014

**VIA HAND-DELIVERY**

Robert F. Phillips, P.E.  
City Engineer  
City of Madison  
210 Martin Luther King Jr. Blvd., Room 115  
Madison, WI 53703

RE: Scott Construction, Inc.  
Appeal of February 26, 2014 Decision Relating to Contract No. 7239 Chip Sealing 2014 – East  
Appeal of February 26, 2014 Decision Relating to Contract No. 7240 Chip Sealing 2014 – West

Dear Mr. Phillips:

I represent Scott Construction, Inc., with respect to the above-referenced appeals. Enclosed please find copies of my client's February 27, 2014 Appeals that were received by your office yesterday. Please address all further correspondence and inquiries to me.

As you know, Scott Construction was awarded this very same work in both 2012 and 2013. Once again, Scott Construction was the low bidder for this work in 2014, by a combined total of almost \$175,000. However, this year, Scott Construction has been deemed a "non-responsible bidder" for allegedly failing to meet certain requirements related to the Small Business Enterprise ("SBE") Program. As a self-performing contractor, Scott Construction was not obligated to subcontract any portion of its work, thereby making the SBE-related goals not applicable to its bid. The City has agreed with this approach the last two years, as it awarded the 2012 and 2013 contracts when Scott Construction's bids **contained the identical SBE-related paperwork** as submitted in 2014. The City's decision to ignore this precedent, and ignore the plain language of its own SBE Program, is arbitrary, capricious and in violation of the law.

As a result, Scott Construction respectfully requests that the two February 26, 2014 decisions finding Scott Construction to be a non-responsible bidder be rescinded immediately, and Scott Construction awarded both contracts as the lowest, responsible bidder.

I am going to be out of the state for most of the next week, returning to the office on Friday, March 7, 2014. As such, I would request that no proceedings are scheduled on this matter during that time. I

# DeWitt

Ross & Stevens s.c. Law Firm

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am, however, available to discuss this matter via telephone next week. If you would like to talk, please call me on my cell at 608.217.9334.

Sincerely,

**DeWitt Ross & Stevens s.c.**



Bradley C. Fulton

BCF:cen

cc: Randy Scott (w/enc.)(via email)  
Jeff Jacobson (w/enc.)(via email)  
Mr. Norman D. Davis (w/enc.)(via hand-delivery)

# SCOTT

CONSTRUCTION, INC.

ASPHALT SURFACING SINCE 1926

ROADS • STREETS • HIGHWAYS • DRIVEWAYS • PARKING LOTS

February 27, 2014

City of Madison  
%Mr. Rob Phillips, City Engineer  
210 Martin Luther King, Jr. Blvd, Room 115  
Madison, WI 53703

RE: Contract No. 7239-Chip Sealing 2014 East

Dear Mr. Phillips:

Please accept this letter as a formal exercise of Scott Construction, Inc.'s right to appeal the recent denial of eligibility for the award of the above-referenced contract. Pursuant to the denial letter we received on February 26, 2014. Please advise.

Sincerely,  
SCOTT CONSTRUCTION, INC.



Randy Scott  
Executive Vice President

Cc: Mr. Norman D. Davis, City of Madison Civil Rights Division Manager

SEAL COAT • COLD MIX • HOT MIX

WWW.SCOTTCONSTRUCT.COM

PH. 608.254.2555

IN WI: 800.843.1556

FAX: 608.254.2249

560 MUNROE AVE., P.O. BOX 340 LAKE DELTON, WI 53940

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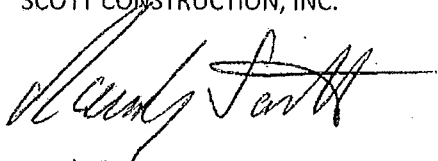
City of Madison  
%Mr. Rob Phillips, City Engineer  
210 Martin Luther King, Jr. Blvd, Room 115  
Madison, WI 53703

RE: Contract No. 7240-Chip Sealing 2014 West

Dear Mr. Phillips:

Please accept this letter as a formal exercise of Scott Construction, Inc.'s right to appeal the recent denial of eligibility for the award of the above-referenced contract. Pursuant to the denial letter we received on February 26, 2014. Please advise.

Sincerely,  
SCOTT CONSTRUCTION, INC.



Randy Scott  
Executive Vice President

Cc: Mr. Norman D. Davis, City of Madison Civil Rights Division Manager

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