

LAST & FAORO

S.F. Office:
San Francisco Builders Exchange
850 South Van Ness Avenue
San Francisco, CA 94110
(Reply to San Mateo office)

177 Bovet Road, # 430
San Mateo, CA 94402
Telephone 650-696-8350
Facsimile 650-696-8365

Jonathan M. Bowne
jmbowne@lf-lawyers.com

June 19, 2019

VIA OVERNIGHT DELIVERY and EMAIL: geclark@actransit.org

AC Transit
Gene Clark
Purchasing and Materials Director
1600 Franklin Street, 6th Floor
Oakland, California 94612
[IFB No.: 2019-1473]
[Attention: Protest Material]

Re: BID PROTEST BY: Roofing & Solar Construction, Inc. (15 Crissy Place Novato, CA 94949)
Project: TEC Roof Replacement
IFB No.: 2019-1473

Director Mr. Clark:

The undersigned is counsel for **Roofing & Solar Construction, Inc.'s ("R&SC")**. Please allow this letter to serve as R&SC's bid protest relative to the Alameda-Contra Costa Transit District's ("District") TEC Roof Replacement project ("Project"), pursuant to Project specifications, Section 00 21 13, Part 5.01, and the District's Board Policy No. 468.

R&SC duly and timely submitted a bid for the Project ("Bid"). It appears the District initially deemed the Bid as the lowest responsive bid by a responsible bidder, but then modified its determination. On June 18, 2019 the District issued a "Notice of Non-Award" (**Exhibit 1**) stating the District "determined that the [B]id was non-responsive to the IFB requirements."

No specific reasoning, or allegedly non-responsive elements to the Bid, were stated in the Notice of Non-Award. Instead, the Notice of Non-Award simply directed R&SC's attention to Project specifications, Section 00 20 00, Part 3.3 (B), which states,

"A Bid will be deemed nonresponsive and therefore disqualified if the Bidder (both prime and subcontractor(s)) do not have the **required licenses** outlined in section 00 11 16 Notice Inviting Bids at the time of Bid opening." (emphasis added)

This direction of R&SC to Section 00 20 00, Part 3.3 (B) suggests the District determined the Bid was non-responsive on the basis R&SC **failed to have required licenses**.

Reference to the cited Project specification, Section 00 11 16 shows it addressed required licenses in a single location, at the first paragraph at "Page 3 of 131" (beginning, "Bidders and their proposed subcontractors..."). It provides that, 1) bidders must hold such licenses required by law, 2) prime bidders shall possess a CSLB license type "A, B, C-20, or C-39 at the time of contract award..."; and 3) subcontractors hold "valid licenses suitable for their trade."

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In response to the suggestion in the Notice of Non-Award that R&SC filed to have required licenses, R&SC contends it does have all required licenses accounted for in its bid.

As stated in the Bid, R&SC operates under CSLB license #1018877, which includes the following classifications: B (General Building), C-10 (Electrical), and C-39 (Roofing). **Exhibit 2** is a true and correct printout of R&SC's CSLB license page confirming its license details.

Accordingly, Project specification, Section 00 11 16 required R&SC, as prime bidder, to hold a CSLB license type "A, B, C-20, or C-39 at the time of contract award", and at the time of bid opening R&SC held a B and C-39 license. Thus, on the face of its Bid, R&SC met this bid requirement and was therefore responsive.

The Bid also included R&SC's completed "Prime Contractor & Subcontractor/Supplier Report", pursuant to Project specification, Section 00 41 00 (page 20 of 132) (**Exhibit 3**). The subcontractor form listed three subcontractors: 1) MC Mechanical for HVAC; 2) Bay Counties Construction & Maintenance for Electrical; and 3) Rsanalysis for Balancing.

Project specification, Section 00 11 16 required subcontractors hold "valid licenses suitable for their trade." MC Mechanical holds CSLB license # 929991, with a C-20 (HVAC) classification. Bay Counties Construction & Maintenance holds CSLB license # 779952, with a B (General Building), C-10 (Electrical), and C-36 (Plumbing) classification. Rsanalysis holds CSLB license # 748756, with a C-61/D62 (Air and Water Balancing) classification. **Exhibit 4** is a true and correct printout of the subcontractor's CSLB license pages confirming their license details. Thus, all listed subcontractors hold valid licenses for their listed trades.

Finally, regarding Project specification, Section 00 11 16's general requirement that bidders must hold all licenses required by law, that has been met. The scope of work for this Project as described in Project specification, Section 00 11 16 (page 1) is for "removal, replacement of the existing roof and mechanical systems..." The primary trade is roofing, which is covered by R&SC's C-39 classification. The mechanical work is covered by listed subcontractor MC Mechanical's C-20 classification. Associated electrical work is covered by listed subcontractor Bay Counties' C-10 (or R&SC's own C-10). Balancing work is covered by Rsanalysis's C-61/D62 classification. Finally, R&SC's B license classification would cover any needed framing or carpentry, or other unrelated trades. These comprise all licenses required by law.

Together, it is clear **R&SC's Bid was responsive in that it has all required licenses** outlined in Project specification, Section 00 11 16.

Of note, there was discussions between R&SC and the District after bid opening and prior to the Notice of Non-Award regarding other matters, namely regarding the Small Business Enterprise/Small Local Business Enterprise (SBE/SLBE) goals set forth in the Notice Inviting Bids. Emails and documentation were exchanged, including a June 4, 2019 email from the District's Contract Specialist Mr. Michael Silk confirming the SBE/SLBE issues being discussed would not be a deterrent to starting the contract. Since the SBE/SLBE issues discussed were not referenced in any manner in the Notice of Non-Award, R&SC assumes they were not the basis of the determination and are therefore not being addressed here. R&SC reserves the right to supplement its protest to address SBE/SLBE issues to the extent they were part of the determination.

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R&SC understands that the District may have already issued a new invitation to bid for this Project. That is clearly premature, and the legal validity of an award pursuant to the separate and new invitation to bid is questionable.

In conclusion, the **specific remedy R&SC requests is the award of the Project to R&SC**. All communications on the matter of this protest should be directed to the undersigned. R&SC will submit any other needed documentation requested. I look forward to the District's response.

Very truly yours,

LAST & FAORO

A handwritten signature in blue ink, appearing to be 'J. Bowne', with a long horizontal flourish extending to the right.

Jonathan M. Bowne

CC:

Michael Silk, AC Transit, Contracts Specialist (email only: msilk@actransit.org)

Sharon Dennis, Purchasing Manager (email only: sdennis@actransit.org)

Linda Nemeroff - District Secretary (email only: districtsecretary@actransit.org)

Phillip Halley - (email only: phalley@actransit.org)

Exhibit 1



Alameda-Contra Costa Transit District

June 18, 2019

Cassy Fabiani
Roofing & Solar Construction Inc.
15 Crissy Place
Novato, CA 94949

Re: Notice of Non Award for Invitation for Bids (IFB) No. 2019-1473 TEC Roof Replacement

Dear Mr. Fabiani:

Thank you for participating and submitting a bid in response to IFB 2019-1473 that was issued by Alameda-Contra Costa Transit District (District) on April 19th, 2019.

The following vendors submitted responses to the above solicitation:

- Best Contracting Services, Inc.
- Roofing & Solar Construction Inc.

After reviewing your bid documents and the requested supplemental information, it was determined that the bid was non-responsive to the IFB requirements. Attention is directed to section 00 20 00, Part 3 (B)

A Bid will be deemed nonresponsive and therefore disqualified if the Bidder (both prime and subcontractor(s)) do not have the required licenses outlined in section 00 11 16 Notice Inviting Bids at the time of Bid opening.

We appreciate your interest in doing business with AC Transit.

Sincerely,
Michael Silk
Contracts Specialist
Msilk@actransit.org

1600 Franklin Street • Oakland, CA 94612 • TEL (510) 891-7241 www.actransit.org

Exhibit 2



CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 1018877

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

Data current as of 6/19/2019 4:41:33 PM

Business Information

ROOFING & SOLAR CONSTRUCTION INC
15 CRISSY PLACE
NOVATO, CA 94949
Business Phone Number:(415) 779-4215

Entity Corporation
Issue Date 09/29/2016
Expire Date 09/30/2020

License Status

This license is current and active.

All information below should be reviewed.

Classifications

B - GENERAL BUILDING CONTRACTOR
C10 - ELECTRICAL
C17 - GLAZING
C39 - ROOFING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with STATE NATIONAL INSURANCE COMPANY INC.

Bond Number: SWI06269

Bond Amount: \$15,000

Effective Date: 09/13/2018

Contractor's Bond History

Bond of Qualifying Individual

The qualifying individual MARSHALL ALLEN HORNSTEIN certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.

Effective Date: 09/29/2016

The qualifying individual CASSY ELIZABETH FABIANI certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.

Effective Date: 11/07/2018

Workers' Compensation

This license has workers compensation insurance with the STATE COMPENSATION INSURANCE FUND

Att.2

Policy Number:9166418

Effective Date: 09/17/2016

Expire Date: 09/17/2019

Other

Personnel listed on this license (current or disassociated) are listed on other licenses.

Exhibit 3

TEC Roof Replacement

IFB #2019-1473

Prime Contractor & Subcontractor/Supplier Report

The Offeror is required to furnish the following information in accordance with the provisions of Public Contract Code Sections 4100 to 4113, Inclusive. This list and information shall include all subcontractors that will perform work, provide labor or render services to the Offeror in connection with the project in an amount in excess of **one-half of one percent (0.5%)** of the total amount of Offeror's Grand Total Cost.

Prime/Subcontractor/Supplier Name/Address/Contact Information	Type of Work or Materials	Percentage of Work/ Materials	Check if Applicable		DBE/SBE Certifying Agency (i.e. State of CA)
			DBE	SBE	
Name: MC Mechanical Address: 809 Saint Francis Blvd. Daly City CA 94015 Contact Person: Mario Cabrera Phone: 415-806-4619 Email: How Many Years In Business: 10 DIR Registration #: License No (if applicable): 929991	HVAC		<input type="checkbox"/>	<input type="checkbox"/>	
Name: Bay Counties Construction & Maintenance Address: 6701 Mission St. Ste 6 Daly City CA 94015 Contact Person: Luis Carlos Phone: 415-271-3525 Email: Carlos@baycounties.net How Many Years In Business: 20 DIR Registration #: 1000063993 License No (if applicable):	Electrical	Work 67% Materials 33%	<input type="checkbox"/>	<input type="checkbox"/>	
Name: Rsanalysis Address: 1035 Suncast Ln. #130 El Dorado Hills CA 95762 Contact Person: Erin Pierce Phone: 916-358-5672 Email: bidding@rsanalysis.com How Many Years In Business: 20+ DIR Registration #: 1000012928 License No (if applicable): 748756	Balancing	Work 2% Materials 0%	<input type="checkbox"/>	<input type="checkbox"/>	

(DO NOT LIST ALTERNATIVE SUBCONTRACTORS FOR THE SAME WORK.
ATTACH ADDITIONAL SHEETS AS NECESSARY)

Exhibit 4



CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 929991

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

Data current as of 6/19/2019 2:16:14 PM

Business Information

M C MECHANICAL
P O BOX 3561
DALY CITY, CA 94015
Business Phone Number:(415) 571-7775

Entity Sole Ownership
Issue Date 03/18/2009
Expire Date **03/31/2021**

License Status

This license is current and active.

All information below should be reviewed.

Classifications

C20 - WARM-AIR HEATING, VENTILATING AND AIR-CONDITIONING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with BUSINESS ALLIANCE INSURANCE COMPANY.

Bond Number: G80515819026

Bond Amount: \$15,000

Effective Date: 05/14/2018

Contractor's Bond History

Workers' Compensation

This license has workers compensation insurance with the HARTFORD CASUALTY INSURANCE COMPANY

Policy Number: 01WECGG1152

Effective Date: 08/10/2018

Expire Date: 08/10/2019

Workers' Compensation History



CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 779952

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

Data current as of 6/19/2019 2:21:45 PM

Business Information

BAY COUNTIES CONSTRUCTION AND MAINTENANCE
6701 MISSION STREET #6
DALY CITY, CA 94014
Business Phone Number:(415) 271-3525

Entity Sole Ownership
Issue Date 06/06/2000
Expire Date 06/30/2020

License Status

This license is current and active.

All information below should be reviewed.

Additional Status

There is Complaint Disclosure information for this license.

Classifications

B - GENERAL BUILDING CONTRACTOR
C10 - ELECTRICAL
C36 - PLUMBING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with WESTERN SURETY COMPANY.

Bond Number: 63349194

Bond Amount: \$15,000

Effective Date: 10/14/2017

Contractor's Bond History

Disciplinary Bond

This license filed a Disciplinary Bond with AMERICAN CONTRACTORS INDEMNITY COMPANY.

Bond Number: 100298892

Bond Amount: \$15,000

Effective Date: 02/17/2016

Cancellation Date: 04/04/2019

This license has workers compensation insurance with the STATE COMPENSATION INSURANCE FUND

Att.2

Policy Number:9168219

Effective Date: 10/19/2016

Expire Date: 10/19/2019

Workers' Compensation History

Other

Personnel listed on this license (current or disassociated) are listed on other licenses.



CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 748756

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

Data current as of 6/19/2019 2:22:48 PM

Business Information

RSANALYSIS INC
1035 SUNCAST LANE SUITE 130
EL DORADO HILLS, CA 95762
Business Phone Number:(916) 358-5672

Entity Corporation
Issue Date 05/01/1998
Expire Date **05/31/2020**

License Status

This license is current and active.

All information below should be reviewed.

Classifications

C-61 / D62 - AIR AND WATER BALANCING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with AMERICAN CONTRACTORS INDEMNITY COMPANY.

Bond Number: 137667

Bond Amount: \$15,000

Effective Date: 01/01/2016

[Contractor's Bond History](#)

Bond of Qualifying Individual

The qualifying individual MICHAEL THOMAS RENOVICH certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.

Effective Date: 05/01/1998

Workers' Compensation

This license has workers compensation insurance with the OHIO CASUALTY INSURANCE COMPANY (THE)

Policy Number: XWS57996245

Effective Date: 07/29/2018

Expire Date: 07/29/2019

[Workers' Compensation History](#)