

**Date:** December 5, 2024

**To:**

Anna Baca

City of Costa Mesa

**Email:** [anna.baca@costamesaca.gov](mailto:anna.baca@costamesaca.gov)

**Subject:** Protest of Award Recommendation – Project: Costa Mesa City Hall IT Offices and Training Room Basement Remodel (Project No. 24-11)

Dear Ms. Baca,

We are submitting this letter to formally protest the recommendation to award the Costa Mesa City Hall IT Offices and Training Room Basement Remodel (Project No. 24-11) to Triangle DECON Services Inc. Based on the bid documents, specifications, and applicable California laws, we believe the lowest bidder's submission is non-responsive. Below, we outline our concerns in detail with specific references for your review:

### 1. Non-Compliance with Public Contract Code Section 4100

Per Section P-6 "Designation of Subcontractors" in the bid specifications (page 68 of the attached documents), bidders must list subcontractors for any work exceeding **0.5% of the total bid amount or \$10,000, whichever is greater**. This includes specialty scopes such as electrical, low-voltage, and HVAC.

- Triangle DECON Services Inc., as a General Building Contractor with License B, did not list subcontractors for these specialty trades.
- As outlined in Section 4107 of the Public Contract Code, failure to designate subcontractors for these trades obligates the bidder to perform the work themselves. Without appropriate specialty licenses (e.g., C-10 for electrical, C-20 for HVAC), this violates the statutory requirements.

### 2. Non-Compliance with California Business and Professions Code Section 7057

Under Section 7057 of the California Business and Professions Code, a General Building Contractor may only self-perform specialty work if:

1. They hold the required specialty licenses.
2. They subcontract the work to licensed subcontractors.

This project includes specialty scopes for electrical, HVAC, and low-voltage systems, which are distinct from general carpentry or framing. Triangle DECON Services Inc. does not hold the required specialty licenses and failed to subcontract this work, making their bid non-compliant.

### 3. Alignment with the Subletting and Subcontracting Fair Practices Act

#### AFFILIATIONS

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The Subletting and Subcontracting Fair Practices Act (Sections 4100–4113 of the Public Contract Code) strictly prohibits subcontracting specialty work post-bid submission unless under emergency conditions approved by the legislative body.

- The omission of subcontractors in Triangle DECON Services Inc.’s bid submission cannot be corrected post-award, as doing so would contravene the City’s own bid requirements.

### Our Compliance

American Construction Company LLC has complied with all requirements set forth in the bid specifications.

- We hold both a General Building Contractor License (B) and a C-20 HVAC license, enabling us to perform or subcontract all specialty work as required.
- We listed qualified subcontractors for specialty scopes exceeding the 0.5% threshold in accordance with Section P-6 of the bid notice.

Our adherence to these requirements, combined with our proven track record in public works projects, ensures that we are fully capable of delivering this project efficiently and in compliance with all applicable laws and regulations.

### Request for Consideration

We respectfully request the City of Costa Mesa to review the lowest bidder’s submission for compliance with the bid requirements and applicable laws. Based on this review, we believe Triangle DECON Services Inc.’s bid should be deemed non-responsive, and American Construction Company LLC should be considered for award as the next lowest responsive and responsible bidder.

Thank you for your attention to this matter. We are available to provide any additional documentation or clarification upon request. Please contact me directly at [Insert Phone Number] or [Insert Email Address].

Sincerely,

**Ben Hamed, AM.ASCE, AIA, LEED-GA**

Principal Engineer

CEO, ACC & ACC and Engineering

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714-844-2140 ext. #104

#### AFFILIATIONS