



CITY OF COSTA MESA

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FROM THE DEPARTMENT OF PUBLIC SERVICES/ENGINEERING DIVISION

January 2, 2025

Sent by Certified Mail
and by E-Mail

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Triange Decon Services, Inc.
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Mission Viejo, CA 92691
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Ben Hamed
American Construction Company, LLC, DBA ACC
1130 N Kraemer Blvd #1
Anaheim, CA 92806
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**SUBJECT: RESPONSE TO BID PROTEST
FINDINGS OF NON-RESPONSIVENESS
COSTA MESA CITY HALL IT OFFICES AND TRAINING ROOM
BASEMENT REMODEL, CITY PROJECT NO. 24-11**

Dear Bidders:

The City Clerk of the City of Costa Mesa ("City") received and opened fourteen (14) bids for the Notice Inviting Bids ("Notice") for the Costa Mesa City Hall IT Offices and Training Room Basement Remodel, City Project No. 24-11 ("Project") on December 5, 2024. On the same day, American Construction Company, LLC, DBA ACC ("ACC") submitted a protest letter (Attachment 1) challenging the apparent low bid submitted by Triangle Decon Services ("Triangle"). This letter addresses ACC's protest and explains why Triangle's bid has been deemed non-responsive, while ACC's bid is considered responsive. Based on this analysis, the City Engineer recommends awarding the Project to ACC, as detailed below.

The City has completed its review of the bids submitted in response to the Notice. ACC's protest alleges that Triangle failed to designate appropriately licensed specialty subcontractors for the electrical and HVAC scopes of work. ACC appears to have based its protest solely on the "Bid Results" section of the PlanetBids website. However, upon review of the complete uploaded bid proposal, it was confirmed that Triangle had indeed designated appropriately licensed specialty subcontractors.

ATTACHMENT 4

Despite this determination, a thorough review of Triangle's bid proposal revealed that it failed to meet the "Qualification of Bidders" requirements outlined in Paragraph 2 of SECTION B, INFORMATION FOR BIDDERS in the Notice. Specifically, Triangle did not include a completed list of construction projects and references demonstrating:

- 1) Five (5) years of continuous experience as a prime contractor on projects of comparable quality, size, complexity, and type; and
- 2) Completion of three (3) projects as a prime contractor that meet these criteria.

The City staff subsequently requested that Triangle provide an updated list of qualifying projects. However, Triangle was unable to furnish any substantial qualifying prerequisite experience to support its bid proposal and ability to meet the "Qualification of Bidders" requirements. They did send an email stating they started their business in 2019 but did not start any projects until 2023. Of the projects they had completed they also stated that only one could be considered comparable. As a result, the City Engineer concludes that Triangle's bid is non-responsive.

California Public Contract Code section 20162, which governs the City's award of the contract for this Project, requires that the contract be awarded, if at all, to the lowest responsible bidder. A bid is responsive if it promises to do what the bidding instructions demand. (See *D.H. Williams Construction, Inc. v. Clovis Unified School Dist.*, 146 Cal. App. 4th 757, 764 (5th Dist. 2007).) Responsiveness is determined from the face of the bid. (See *Great West Contractors, Inc. v. Irvine Unified School Dist.*, 187 Cal. App. 4th 1425, 1452-53 (4th Dist. 2010)

Based on the above analysis, Triangle's bid is non-responsive, and ACC, as the second-lowest bidder, is the lowest responsive and responsible bidder. Accordingly, the City Engineer recommends awarding the Project to ACC.

The Project is tentatively scheduled to be presented to the City Council on February 4, 2025, at 6:00 PM for award. If any bidder wishes to protest or object to these determinations and the intent to award the contract to ACC, they must attend the Council Meeting on February 4, 2025 and provide written objection and supporting evidence to the City Clerk's Office at City Hall, 77 Fair Drive, Costa Mesa, CA 92626, no later than January 28, 2025.

Sincerely,

Seung Yang

Seung Yang
City Engineer

Attachment 1 – December 5, 2024 protest from:
American Construction Company, LLC, DBA ACC (2 pages)

c: Raja Sethuraman, Public Works Director (*email only*)
Bobby Fouladi, Senior Engineer (*email only*)
Tarquin Preziosi, Assistant City Attorney (*email only*)
Lauren B. Stec – Attorney at Law, Lanak & Hanna (*email only*)
File: