



ATTORNEYS AT LAW

Thomas F. Feerick Jr., Esq.
thomas@feerickgroup.com

December 7, 2023

Mr. Juan Loera
Branch Chief
Awards & Protests Unit
State of California
Department of Transportation
1727 30th Street, MS 43
Sacramento, California 95816
juan.loera@dot.ca.gov

URGENT BID PROTEST

Re: Caltrans Contract No. 07-338604
Low Bidder: Alfaro Communications Construction, Inc.

Dear Mr. Lorea:

We represent Alfaro Communications Construction, Inc. ("ACCI"). This is ACCI's response to International Line Builders, Inc. ("ILB") letter dated November 30, 2023, responding to ACCI's bid protest dated November 22, 2023. In its letter, ILB **admits** it failed to list Frontline Traffic Control for Bid Item 7 in violation of the Subletting and Subcontracting Fair Practices Act (Pub. Contract Code., § 4100 et seq.). As detailed in ACCI's protest, under the Act, ILB's failure to list any subcontractor for Bid Item 7 is a certification by ILB it must self-perform the work. (Pub. Contract Code., § 4109.) ILB's admission is fatal and Caltrans should reject the nonresponsive bid of ILB on that basis alone.

ILB also admitted a mathematical error in its bid by confirming it listed the wrong value for its total subcontract value. ILB incredibly asks Caltrans to make a post-bid adjustment to ILB's bid to rectify the mistake and put the correct amount. As detailed in ACCI's protest, this defect both affected the amount of ILB's bid and, if Caltrans does make the post-bid correction, will result in an unallowable advantage (post-bid correction) not afforded other bidders. (*Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal.App.4th 1432, 1440-41.) This renders the defect nonwaivable and Caltrans must reject the bid.

ILB also admits that it make a mistake in its subcontractor listing by listing Smithson Electric as performing Bid Item 63 when in reality they will be performing Bid Item 72. Again, that is a violation of Public Contract Code section 4109 and ILB must self-perform the work under Bid Item 72.

It is also noteworthy what ILB does not address in its response. As detailed in ACCI's protest, ILB's bid is nonresponsive for failing to describe the portions of work its listed subcontractors would perform. Specifically, ILB listed: (1) Her-Con Construction Services as partially performing Bid Items 19-20, 41-60; (2) Diversified Landscape Co. as partially performing Bid Items 26-40; and (3) Frontline Traffic Control as partially performing Bid Items 8, 9, 11, and 51-58. However, ILB merely restated the bid item names for the description of work, in violation of the Standard Specifications. ILB's failure to address this issue is an

The Feerick Group, Inc. 3268 Governor Drive, Suite 396 San Diego, California 92122 T 858.337.9564



ATTORNEYS AT LAW

Thomas F. Feerick Jr., Esq.
thomas@feerickgroup.com

adoptive admission that its bid is nonresponsive. Further, ILB does not even address its failure to list a subcontractor for Bid Item 6 despite listing Frontline as performing this work in its DBE forms. Like with Bid Item 7, this renders ILB's bid nonresponsive.

ILB's letter admits all the nonwaivable defects detailed in ACCI's protest. ACCI therefore requests Caltrans reject the nonresponsive bid of ILB and proceed to award the contract to the lowest responsive and responsible bidder: ACCI.

Thank you for your attention to this matter and contact us with any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Thomas F. Feerick Jr." in a cursive script.

Thomas F. Feerick Jr., Esq.