



January 27th, 2025
Via email only: DES.OE.FMIII.Awards@dot.ca.gov
April Perez-Hollins, Office Chief
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th Street, MS-43
SACRAMENTO, CA 95816-8041

Re: **Contract number 11-430194** (the "Contract")
Bid opening Date: January 16, 2025

Subject: Formal Protest of Intent to Award – Contract Number 11-430194

Introduction

Nationwide Contracting Services, Inc. (Nationwide) hereby submits this formal protest regarding the intent to award Contract Number 11-430194, based on the bid opening on January 16, 2025. Nationwide, as the only responsive bidder with a bid of \$17,142,684.14, asserts that all lower bidders are non-responsive due to substantial legal and procedural violations. As such, Nationwide is the only responsive and responsible bidder, and the contract should be awarded accordingly.

Detailed Issues with the Apparent Low Bidders

1. RAL Investment Corporation (RAL) – Non-Responsive Bid

RAL, the lowest bidder at \$12,636,907.04, failed to submit mandatory post-bid documentation, including:

- Disadvantaged Business Enterprise (DBE) commitments
- Off-Road Diesel Fleet documentation

Legal Violation:

Under California Public Contract Code § 1103 and § 10163, the failure to provide required documentation renders the bid non-responsive. A bid must meet all statutory and regulatory criteria at the time of submission to be considered valid (*MCM Construction, Inc. v. City and County of San Francisco*, 1998).

Conclusion: RAL's bid must be rejected as non-compliant.

2. Griffith Company (Griffith) – Non-Compliance with Subcontractor Listing Laws

Griffith listed Fortte Construction Inc. for bid items 148-151 but failed to list an electrical subcontractor for Item 152 (building work), despite the extensive electrical and fire alarm scope



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required. Item 152's bid amount is \$661,204.10, which is **more than 0.5%** of the total bid amount, thus requiring subcontractor listing under California law.

Legal Violation:

Under the **Subletting and Subcontracting Fair Practices Act** (California Public Contract Code § 4104), a contractor must list all subcontractors performing work exceeding **1/2 of 1% of the total bid amount** at the time of bid submission. Failure to list the electrical subcontractor for Item 152 constitutes a **material bid defect**, rendering Griffith's bid non-responsive (*Ghilotti Construction Co. v. City of Richmond*, 1996).

Conclusion: Griffith's bid should be disqualified due to failure to comply with mandatory subcontractor listing laws.

3. Hazard Construction Engr, LLC (Hazard) – Bid Shopping and Incomplete Subcontractor Listing

Hazard listed Select Electric Inc. for Items 148-151 and also for Item 152 (building work), excluding fire alarm work. However, Select Electric's bid amount was \$316,000, while Hazard allocated \$365,000 for the item and designated 85% to Select Electric's portion of work performed. Additionally, Hazard failed to allocate the \$125,000 required for fire alarm work, leaving only \$54,750 unaccounted for, which is insufficient to cover the fire alarm scope (Exhibit A).

Key Issues:

- Select Electric confirmed to Nationwide before bid submission that they could not find a fire alarm subcontractor and excluded it from their bid scope.
- Hazard knowingly listed Select Electric, disregarding the missing fire alarm scope, intending to **bid shop post-award**, which is illegal.

Legal Violation:

Bid shopping, the practice of securing a subcontractor at a lower price after award, violates the intent of fair and open competition under California Public Contract Code § 4100 and is strictly prohibited (*Valley Crest Landscape, Inc. v. City Council*, 1996). Furthermore, the failure to allocate funds for the entire scope of work is a material deviation that cannot be waived post-award.

Conclusion: Hazard's bid is non-responsive and must be rejected.

4. Coffman Specialties, Inc. (Coffman) – Non-Responsive Bid

Coffman followed a similar approach as Hazard by listing Select Electric for Item 152 without accounting for the fire alarm scope. Additionally, Coffman failed to submit its post-bid DBE and Off-Road Diesel Fleet documentation, making its bid non-compliant.

Legal Violation:

Coffman's omissions violate the requirement under California Public Contract Code § 10163, which



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mandates complete documentation at the time of bid submission. Similar to RAL, failure to provide post-bid documentation renders the bid non-responsive (*DeSilva Gates Construction, LP v. Department of Transportation*, 2015).

Conclusion: Coffman's bid must be rejected as incomplete and non-compliant.

Subcontractor Listing Law and Compliance with 1/2 of 1% Rule

According to **California Public Contract Code § 4104**, bidders must list subcontractors for any work exceeding **1/2 of 1% of the total bid**. The purpose of this law is to:

1. **Prevent Bid Shopping:** Contractors cannot substitute subcontractors post-award, which would distort fair competition.
2. **Ensure Proper Qualification:** Proper listing ensures only qualified subcontractors perform specialized work, such as electrical and fire alarm installations.
3. **Maintain Fair Market Competition:** Bidders cannot undercut fair market pricing by misrepresenting subcontractor scope and intent.

Non-compliance with the **1/2 of 1% rule** results in the automatic rejection of a bid, as courts have affirmed that any failure to list required subcontractors is a material defect that cannot be corrected post-award (*Los Angeles Unified School District v. Great American Insurance Co.*, 2010).

Nationwide: The Only Responsive and Responsible Bidder

Nationwide is the only bidder that has fully complied with all contract requirements, including:

- Properly listing all required subcontractors in compliance with **Public Contract Code § 4104**.
- Submitting complete post-bid documentation, including DBE commitments and Off-Road Diesel Fleet reports.
- Conducting due diligence to ensure full scope understanding, unlike other bidders who submitted incomplete and potentially misleading bids.

It would be unjust and a violation of procurement integrity to award the contract to bidders who failed to meet these statutory requirements, as it undermines the fundamental principles of fairness and transparency in public bidding.

Conclusion and Request for Rejection of Non-Responsive Bids

Based on the aforementioned legal violations and material bid defects, Nationwide respectfully requests:



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1. The immediate rejection of bids from RAL Investment Corporation, Griffith Company, Hazard Construction Engr, LLC, and Coffman Specialties, Inc., as they are **non-responsive and non-responsible bidders**.
2. The contract award to Nationwide Contracting Services, Inc., the only responsive and responsible bidder in compliance with all statutory and contractual obligations.

We urge the contracting agency to enforce the laws and policies governing public works contracts and uphold the integrity of the competitive bidding process.

We appreciate your attention to this matter and anticipate a timely and fair resolution.

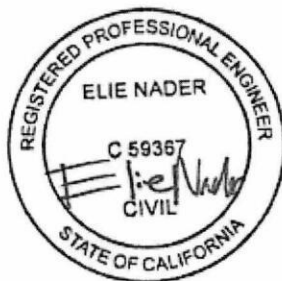
Sincerely,

Elie Nader

President

Nationwide Contracting Services, Inc.

DBA Nationwide General Construction Services





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 Commercial • Educational • Healthcare • Industrial • Multi-Family
 Design/Build • Installation • Engineering • Service • UL listed Monitoring

PROJECT NAME:	11-430194 Culvert restoration, tunnel CO monitoring system, & ADA ramp Polk / Orange Avenue San Diego, CA	DATE: 01/15/2025	CSLB#: C-10 961901
		DIR#: 1000039756	

CUSTOMER: UC Electric	ATTENTION: Estimating	BY: Gene Knust-Graichen	MOBILE: 714-878-4582
ADDRESS: 24849 Loma Dr., Moreno Valley, CA 92553		EMAIL: gene@avcomsystems.com	

Avcom Systems, Inc. (ASI), dba: CALLIDE TECHNICAL is pleased to submit the following proposal, which supersedes any written or verbal quotation previously submitted for your review and acceptance.

Fire Alarm System: (NOTIFIER, by Honeywell)

1. This proposal is based on the fire alarm device quantities from the Electrical set of plans provided and dated 09/13/22.
2. One year of Central Station Monitoring is included per the specifications.
3. Engineered shop drawings and product submittals are included.
4. Fire Alarm cable shall be furnished and installed, to complete end to end conduit and boxes furnished by others.
5. Safe-Off is included.

EXCLUSIONS:

1. Demo of existing fire alarm equipment and cable.
2. Permit and plan check fees.
3. "Fire Alarm Control Panel" signage to be furnished by others.
4. Linear Heat detection support.
5. Conduits or cables for tunnel.

PROJECT INFORMATION:

- Building Occupancy Type: U Occupancy
- Code Cycle: 2022 CBC
- Drawing Revision/Date: Electrical (09/13/22)
- Specification Section: 99-16722 Fire Alarm and Detection System
- Addendum(s): 5



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 Commercial • Educational • Healthcare • Industrial • Multi-Family
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GENERAL CONDITIONS:

- 1) The language contained in this proposal shall be incorporated into any contract, sub-contract, purchase order or written directive whether so stated or not. All terms and conditions shall be formalized, in a binding written contract between all parties.
- 2) This proposal is a best effort estimate of costs associated with the plans, specifications and understanding of the scope of work.
- 3) Invoicing shall be based on the percentage of material delivered or labor performed, or by the Approved Schedule of Values.
- 4) (ASI) reserves the right to stop work or separate from this agreement for failure to provide payment within 30 days of any payment application. The termination of this agreement is subject to the entire contract amount to become payable in full upon demand.
- 5) Permits, Bonds, Special Insurance Requests, Waiver of Subrogation, Primary and Non-Contributory Wording or Omnibus Wording is NOT included, unless specifically noted or stated herein.
- 6) (ASI) has included our standard insurance coverage.
- 7) Projects having Owner, Contractor or University controlled insurance programs (OCIP, CCIP, or UCIP), cost reductions have been taken into consideration at time of bid. No additional credits or deductions will be considered or taken from the Contract amount.
- 8) Equipment lead-time is normally Four to Six weeks following receipt of an Approved Submittal.
- 9) Engineered Drawings & Product Submittals are normally provided within (45) business days upon receipt of: an Electronically Transmitted Notice to Proceed, Written Purchase Order or Sub-Contract, all Contract Drawings & Specifications, Addendums, Construction Schedule, and AutoCAD files at no additional cost.
- 10) Customer agrees to pay (15%) of the contract amount, plus any Plan-Check and/or Permit Fees upon submission of the Product Submittals and Drawings.
- 11) (ASI) reserves the right to financial compensation related to any move, add, or change, requested by the Customer, A&E team, or AHJ that deviates from the Approved Drawings and/or Submittal.
- 12) Additional devices, equipment and inspections not covered in the scope of work will be provided to the contractor at additional costs.
- 13) A restocking fee of 25% shall be applied for any returned material in the unopened cartage.
- 14) Warranty work: if required will only be performed during normal business hours.
- 15) **Plan check, Permits and Inspections:**
 - a. (ASI) shall make every effort within their control to obtain timely plan check approval, permits and/or inspections.
 - b. (ASI) shall not be held responsible for delays of any nature due to the authorities having jurisdictions (AHJ) availability.
- 16) **Design/Build Projects:**
 - a. The California Code is the basis of design and does not include any Local City Ordinance requirements unless specifically stated otherwise.
 - b. (ASI) reserves the right to omit any device shown or specified without providing a credit for said contained in the bid documents to be determined as NOT required to comply with a California Code minimum system.
 - c. Should additional devices and/or equipment be required that deviates from the Approved Drawings and/or Submittal, (ASI) will assume the responsibility of system equipment and devices only.
- 17) All contract and legal documentation must include our legal entity Avcom Systems, Inc. dba: CALLIDE TECHNICAL

GENERAL EXCLUSIONS:

- 1) Complete Conduit System including Terminal Cabinets
- 2) Device Outlet Boxes and/or J-Box cover plates
- 3) Installation of Back Boxes provided by (ASI)
- 4) Access Panels (Including Elevator Shafts)
- 5) Sprinkler Flow and Tamper Switches
- 6) Installation of Duct Smoke Detector Housings
- 7) HVAC Shutoff Wiring and/or Terminations
- 8) 120VAC Wiring and/or Terminations
- 9) Interface Relays rated greater than 10.0amps
- 10) Smoke/fire damper position switches
- 11) Fan status current transformer status switches
- 12) Electromagnetic door hold opens
- 13) Firefly's, smoke curtains, or smoke guards
- 14) Plywood Backboards Structural Backing or Supports
- 15) High Lifts or Scaffolding to reach locations above 14 feet
- 16) Ferro scans, X-raying, Coring, Cutting, Patching or Painting
- 17) Fire Stopping and Sealing of Penetrations
- 18) Painting of Terminal Cabinet, J-Box covers or Piping
- 19) Signage
- 20) On-Site Project Manager
- 21) Bid, Payment, or Performance Bonds
- 22) Single Path Communicator(s) (Cell, Radio, or IP Dialers)
- 23) Central Monitoring Service, Plans, Permits or associated fees
- 24) Residential Local 120VAC smoke alarms.



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CLARIFICATIONS:

- 1) Building Signage for any system quoted
- 2) Work shall be performed during normal business hours (Mon-Fri)
- 3) Off hours, Holiday's or weekend work or testing is NOT included

FIRE ALARM SYSTEM: (Materials List)			
QTY	DESCRIPTION	QTY	DESCRIPTION
1	Fire Alarm Control Panel	LOT	Systems Record Document Cabinet
8	Manual Pull Station (WP)	LOT	Engineered System Plans and Submittals
1	Smoke Detector	LOT	Linear Heat Detector (4 Zones)
1	Horn/Strobe (WP)	LOT	Fire Alarm Cable
1	Systems Record Document Cabinet		
Fire Alarm System: (Prices are valid for (60) sixty days based on availability of labor and materials)			
			Total Cost: \$125,000.00

Submitted by: Gene Knust-Graichen
 (714) 878-4582

Accepted by: _____
Printed Name: _____
Date: _____