



January 29, 2021

**City of Commerce
2535 Commerce Way,
Commerce, CA 90040**

ATTN: Mr. Ted Villaganas (Purchasing, City of Commerce)
Ms. Karen Vigil (Construction Manager, Transtech)

Contact: Office (323) 722-4805

SUBJECT: Letter of Protest for Bid Results: PROJECT NO: 2020-02F

Project : BRISTOW LIBRARY & SNACK BAR
1466 S McDonnel Ave,
Commerce, CA 90040

Dear Mr. Villagnas,

This correspondence shall serve as NKS Mechanical Contracting, Inc.'s formal bid protest submitted to City of Commerce as to the bid packages of Archico Design Build Inc. (CA License No. 987122), AID Builders, Inc. (CA License No. 800389), and Metro Builders & Engineers Group, Ltd. (CA License No. 597589), the respective apparent low bidders for bid opening on 11:00am Thursday January 14th, 2021 for the above referenced Project No. 2020-02F Bristow Library & Snack Bar Roofing & HVAC Replacement Project. NKS protests all three bids as non-responsible and/or nonresponsive as set forth hereafter.

The bid forms in the project documents provided had an extensive bid breakdown requirement per the Bid Proposal Form pages 2 & 3, requiring Base Bid separated by Scope/Trade per Schedule A (Library) & Schedule B (Snack Bar) and in the "Proposed Subcontract Form" page 1 further requiring breakdown by Subcontractor. NKS took these requirements very seriously and made every effort to fully comply with these requirements as it is believed that the information required must be relevant to the City's determination of a responsive and responsible bidder or it would not require the information.

Although sometimes expeditious to bid packages that may not be completely responsive to the public agency's stated requirements due to one or two deficiencies, when pertinent information and detailed explanations that would demonstrate a responsive and responsible bidder is waived, such waivers give the bidder an unfair advantage over those of us that strive for excellence, not only in our bid presentation but in our work commitment to quality.

Per the "Subletting and Subcontracting Fair Practices Act," sections 4100 through 4114 of the California Public Contract Code this project requires multiple trades therefore it is required to list the appropriate subcontractors who will perform the work.

Per the California Code of Regulations, the Contractor and their subcontractors are required to possess active and valid license for every trade they will be performing. Work which is greater than half of one percent requires Prime Contractors to list all their Subcontractors designated to perform any such work.

Per response in Addendum 6 to Question 10, the Prime Contractor is required to self-perform 35% of the project with its own forces.

Question 10: The bid documents indicate that the Prime Contractor is to self-perform 50% of the project with its own forces. Please confirm. Advise if there are specialty trades that are excluded from this calculation.

Response 10: This addendum revises subcontracting requirement as follows: The prime contractor is required to perform, with its own organization, contract work amounting to at least 35% of the Contract Price.

Protest to Archico Design Build Inc.

Archico have listed Energy Control as their Subcontractor to perform the HVAC scope of work and noted the subcontractors bid amount at \$188,000. It is important to note HVAC here is a general description. HVAC portion per Plans and Specs consist of a combination of Mechanical, Controls, Duct Cleaning and TAB scope of work. Energy Controls does not possess the specialty licenses C61 / D64 (Air Duct Cleaning), nor is it licensed with C61 / D62 (Air & Water Balancing). Archico under it's A & B classification cannot self-perform the TAB or Duct Cleaning scope of work. The Carrier HVAC equipment was quoted by Sigler for \$116,499.00, Siemens is the standard for Controls in this project and their quotation was \$77,780.00 combined with the equipment cost, this alone exceeds the Subcontractors bid of \$188,000 for HVAC scope of work. Archico cannot self-perform the Controls scope of work. Therefore, we believe the bid submitted by Archico is incomplete and inaccurate for missing all the required Subcontractors and dollar amounts. Archico does not have the entire HVAC scope of work covered in their bid as requested per the plans and specifications. Even if we consider them to be providing their own equipment, upon reviewing all their Subcontractors listed we see they are lacking the 35% requirement for Prime Contractors to self-perform work with its own labor force. Please also note Archico's Base Bid Schedules are inaccurate and reversed between Schedule A & B.

Protest to AID Builders Inc.

AID Builders have listed Multizone HVAC Inc. as their Subcontractor for performing the HVAC scope of work. This Subcontractors license has been expired since 11/30/20 as shown on the Contractors State License Board website thus their bid cannot be accepted as responsive or complete and is automatic grounds of disqualification.

Protest to Metro Builders & Engineers Group, Ltd.

Metro is licensed to perform under A, B, C10 & C51. They have listed Baker as their Electrical Subcontractor for \$26,492 which leave Controls, TAB, Duct Cleaning under their HVAC Subcontractor Cal Engineering. This Subcontractor can only perform under C20 license, without a C61 / D62 (Air & Water Balancing) or C61 / D64 (Air Duct Cleaning) license similar to the lowest bidder (Archico), the Duct Cleaning, Controls and TAB Subcontractors need to be listed. The dollar value for Metro's HVAC Sub is reported at \$270,000 which confirms that HVAC Subcontractor does not have the entire HVAC scope of work covered in their bid. In Bid Proposal Form for Schedule A their bid is 357,075 and Schedule B bid is 31,625 totaling \$388,370 which is inconsistent with the dollar amounts listed for the HVAC subcontractor and without a C20 license Metro cannot self-perform portions of the Mechanical scope of work.



Please note the Prime Contractor Bid Forms and Subcontractor's list were not uploaded on planetbids for review. Per your email directions on January 18th, we contacted the City and submitted an online request on January 19th. The documents were received from the City on January 26th. We could not have submitted an earlier protest letter till we get the opportunity to review these documents.

In conclusion, NKS Mechanical Contracting, Inc. is self-performing more than 35% of the work with its own labor, we have submitted our complete list of Subcontractors, and our breakdown and subcontractor lists confirm the entire project scope is covered under our bid. We believe the apparent three low bidders are non-responsible and/or nonresponsive per the points mentioned before. Should you have any questions or need additional information, please feel free to contact our office at 714-281-5123.

Sincerely,

Arsalan Haque, Project manager
NKS Mechanical Contracting, Inc.
Emailed January 29, 2021