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State License #A, C-39 781499
SBE: 1760522

February 6, 2020

Via Email (mearle@portofsandiego.org) Only

Mr. Matt Earle, Chief Procurement Officer
Procurement Services Department, Port of San Diego
1400 Tidelands Avenue
National City, California 91950

Re: Bid Protest Re Maintenance Repairs At Various Seaport Village Buildings, San Diego, California; Specification No. 2019-17; Project No. MC-0072-01/02

Dear Mr. Earle,

Commercial Waterproofing Systems, Inc. dba ERC Roofing and Waterproofing (hereinafter "ERC") hereby submits a follow-up letter concerning the award of the project known as the Maintenance Repairs At Various Seaport Village Buildings, San Diego, California; Specification No. 2019-17; Project No. MC-0072-01/02 (hereinafter "Project"). ERC understands that the Port of San Diego intends to award the project to Urban Corps of San Diego County (hereinafter "Urban"). For the following reasons, ERC respectfully requests that Port of San Diego reconsider any such award.

Urban is simply not properly licensed to perform the subcontract work at issue, as it holds no specialty licenses, yet is listed to only perform specialty work: painting and roofing. The Contractors State License Board ("CSLB") states on its website, in pertinent part, as follows:

A "B" General Building Contractor Cannot...

- ***Enter a sub-contract involving trades other than framing or carpentry unless:***
 - ***The sub-contract requires at least two other, unrelated trades or crafts;*** or
 - The "B" General Building contractor holds the appropriate license classification.
- ***Include framing or carpentry in calculating the two unrelated trades necessary for the B General Building contractor to be able to take a prime or sub-contract for a project involving other trades.*** [emphasis added.]

(See <https://www.cslb.ca.gov/Resources/Contractors/FastFacts-GeneralB.pdf>)

As is clear by the above excerpt from the CSLB's website, one must ***Include framing or carpentry*** in calculating the two unrelated trades, in order for a B contractor to take a subcontract. If one were to "***Include framing or carpentry***" in its calculation of



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the two unrelated trades, framing or carpentry must be part and parcel of any subcontract, that is, **Included**, of course. While we agree the code section could be clearer and should be clearer, if we are to give meaning to the language, it is the only logical interpretation.

Further, the CSLB states that “The sub-contract requires at least two other... trades”, which begs the question as to what the meaning of the “other” is? The “other”, of course, is framing or carpentry, and the “two” are the unrelated trades to the B license. Again, it should be clearer, but if we give meaning to the language the inescapable conclusion is that a B contractor may only take on specialty work, for which it does not have a license, so long as said specialty work is supplemental or incidental to the work for which it has a license. This precise issue is succinctly stated by the California appellate court in *Currie v. Stolowitz* (1959) 169 Cal.App.2d 810, 814 [338 P.2d 208], as follows:

“The rules and regulations of the State Contractors License Board provide **no person may engage in a field covered by a specialty license unless he has such a license or such work is incidental and supplemental to work performed pursuant to a license he does have.** (Cal. Admin. Code, tit. 16, §§ 730 and 760.)” [emphasis added.]

In light of the foregoing, and ERC’s first letter on the same subject, ERC respectfully request that Urban’s and TL Veterans Construction, Inc.’s bid, for the same reasons, be disqualified for improper licensure, and that ERC be awarded the Project.

Respectfully Submitted,

Matt Machia, Attorney-In-Fact for ERC’s President, Garrett Clark

cc: via e-mail and U.S. Mail to:

Urban Corps of San Diego County 3127 Jefferson Street San Diego, CA 92110 kkennedy@urbancorps.org	TL Veterans Construction, Inc. 520 S LaFayette Park Pl #101 Los Angeles, CA 90057 theodore.lee@tlveterans.com
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