



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

FROM THE DEPARTMENT OF PUBLIC WORKS/ENGINEERING DIVISION

October 7, 2026

Sent by E-Mail and U.S. Mail

Kallen Kildea
Builders United, LLC
6001 S. Decatur Blvd, Suite J
Las Vegas, NV 89118
kallen@buildersunited.com

**SUBJECT: FIRE STATION NO. 2 RECONSTRUCTION, CITY PROJECT 26-05 –
DENIAL OF BUILDERS UNITED BID PROTEST OF AMG &
ASSOCIATES, INC. BID PROPOSAL**

Dear Kallen Kildea,

The City of Costa Mesa (City) is in receipt of the bid protest letter from Builders United, LLC (Builders United) dated September 28, 2026 and supplement letter dated September 30, 2026 for bid proposal received from AMG & Associates, Inc. (AMG). For the reasons set forth below, following City staff's review and analysis of the protest and, in consultation with legal counsel, I have determined that AMG submitted a responsive bid. Your bid protest is rejected pursuant to the procedures set forth in the Information for Bidders, pg. B-4, item No. 23. Accordingly, the City will move forward with awarding the Project to AMG.

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).) A bid that substantially conforms to a call for bids may, although not strictly responsive, be accepted if the variance is inconsequential, meaning the variance cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders. (See *Ghilotti Construction Co. v. City of Richmond*, 45 Cal. App. 4th 897, 904 (1st Dist. 1996).) An actual competitive advantage arises only when a bid defect establishes an actual ground for a successful bidder to withdraw its bid without incurring liability under its bond. (See *Bay Cities Paving & Grading, Inc. v. City of San Leandro*, 223 Cal. App. 4th 1181 (1st Dist. 2014).)

The following responds to the substantive items listed in Builders United's protest:

The listing of subcontractors by bidding prime contractors on PlanetBids is not a requirement. This is further emphasized in Bid Addendum No. 1 Q&A item number four. The City's requirement is for bidding contractors to list subcontractors who will perform work or labor or render services to the prime contractor in an amount in excess of one-

half of one percent to be listed in the Designation of Subcontractors Proposal page P-5. AMG has satisfied this requirement.

AMG has listed subcontractor Ameriscape as the DBA for S&A Construction for the landscaping scope of work which holds an active DIR registration. The CSLB license number provided in AMG's bid proposal properly represents S&A Construction, a licensed C-27 landscape contractor, and identifies Ameriscape as the DBA.

Despite the allegations in the protest, Builders United was provided with electronic access to the complete bid files submitted by AMG for the Project on September 28, 2026. In addition, the City declines your invitation to defer the date of bid award and conduct an investigation into the low bidder on this Project. Accordingly, the concerns noted in Builders United's protest appear to be based on speculation, are not applicable, and fail to establish that AMG received an actual competitive advantage in bidding on the Project. I have therefore determined that AMG's bid proposal is responsive. Please be advised that the Project is scheduled to be awarded to the lowest responsive and responsible bidder by the City Council at its regular Council meeting on October 20, 2026, commencing at 6:00 p.m.

Sincerely,

A handwritten signature in blue ink that reads "Raja Sethuraman" followed by a horizontal line.

Raja Sethuraman, P.E.
Public Works Director
City of Costa Mesa

Attachments:

Builders United Protest of AMG & Associates, Inc. Bid Proposal

c: Arash Rahimian, Senior Engineer
Patrick Bauer, Deputy Public Works Director
Tarquin Preziosi, Assistant City Attorney
Amie Zeoli, Senior Management Analyst
Albert Giacomazzi, AMG & Associates, Inc.
Gladys Gonzalez, Management Analyst
File



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September 28, 2026

City of Costa Mesa
Public Services Department
77 Fair Drive
Costa Mesa, CA 92626

Attn: Anna Baca
Attn: Arash Rahimian

RE: FORMAL BID PROTEST
Fire Station No. 2 Reconstruction
City Project No. 26-05
Apparent Low Bidder: AMG & Associates, Inc.

Dear City Representatives:

Builders United, LLC hereby submits this formal protest regarding the apparent low bid submitted by AMG & Associates, Inc. ("AMG") for the Fire Station No. 2 Reconstruction Project, City Project No. 26-05.

Builders United is an interested bidder and submitted a responsive bid in the amount of \$16,277,700. Based upon the bid results publicly released by the City through the PlanetBids platform, AMG is identified as the apparent low bidder in the amount of \$14,821,000.

This protest is timely submitted and is intended to preserve all rights, remedies, and objections available to Builders United under the Contract Documents, California Public Contract Code, applicable case law, and all other applicable laws and regulations.

I. SUMMARY OF PROTEST

Builders United has identified significant concerns regarding AMG's apparent compliance with California's Subletting and Subcontracting Fair Practices Act, Public Contract Code Sections 4100 through 4114. The publicly available PlanetBids submission portal currently reflects that AMG has no subcontractors listed whatsoever for this approximately \$18 million public works project. California's Subletting and Subcontracting Fair Practices Act is intended to prevent bid shopping, bid peddling, undisclosed subcontracting arrangements, and post-bid manipulation of listed subcontractors.



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The project consists of demolition of an existing fire station, installation of temporary facilities, and construction of a new LEED Gold fire station over a contract duration of 730 calendar days. Given the size, complexity, and scope of the project, the apparent absence of any listed subcontractors raises serious questions regarding compliance with mandatory subcontractor listing requirements and overall bid responsiveness.

Compounding these concerns, Builders United has requested access to AMG's complete bid package and subcontractor listing information. The City has indicated that production of such records may occur after expiration of the protest period, thereby preventing Builders United and other interested parties from meaningfully reviewing AMG's compliance prior to award.

Accordingly, Builders United files this protest based upon the information currently available and expressly reserves the right to supplement, amend, or expand this protest upon receipt of the requested records.

II. APPARENT VIOLATION OF THE SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT

California Public Contract Code Section 4104 requires bidders on public works projects to identify subcontractors who will perform portions of the work exceeding the statutory threshold. The purpose of the statute is to prevent bid shopping and bid peddling and to preserve the integrity of California's competitive bidding process.

Based on AMG's bid amount of approximately \$14.8 million, the statutory listing threshold would be relatively small compared to the value of major construction trades on this project. A reconstruction project of this magnitude would ordinarily involve substantial subcontracted scopes including, but not limited to:

- Demolition
- Concrete
- Reinforcing steel
- Structural steel
- Rough carpentry
- Roofing
- Waterproofing
- HVAC



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- Plumbing
- Electrical
- Fire sprinkler systems
- Fire alarm systems
- Low voltage systems
- Drywall
- Painting
- Site utilities
- Asphalt paving
- Landscaping
- Temporary facilities
- Specialty equipment and systems

Many of these trades would reasonably be expected to exceed the statutory subcontractor listing threshold by substantial margins.

However, the publicly accessible PlanetBids subcontractor tab for AMG's bid currently displays***None.***

If AMG failed to identify subcontractors required to be listed under Public Contract Code Section 4104, such failure may constitute a material defect rendering the bid nonresponsive and ineligible for award.

III. QUESTION WHETHER AMG IS CLAIMING COMPLETE SELF-PERFORMANCE

The absence of any listed subcontractors raises a second significant issue.

If AMG contends that it properly listed no subcontractors because it intends to self-perform all applicable work, the City should carefully investigate the legitimacy of such representation.

Based upon the scope of this project, AMG would effectively be representing the ability and intent to self-perform numerous specialized trades and construction disciplines that are ordinarily subcontracted on public works projects of this size and complexity.



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The City should determine:

- Whether AMG represented that it would self-perform all major trades.
- Whether AMG possesses the labor force and operational capacity to perform such work.
- Whether AMG intends to subcontract portions of the work after award.
- Whether any undisclosed subcontracting relationships exist.
- Whether any listed scope packages were intentionally omitted from disclosure.

Any inconsistency between bid-time representations and actual intended performance could undermine the purpose and requirements of the Subletting and Subcontracting Fair Practices Act.

IV. CITY'S FAILURE TO PROVIDE RECORDS BEFORE THE PROTEST DEADLINE

Builders United has requested records necessary to evaluate AMG's compliance with applicable bidding requirements.

The City has indicated that production may not occur until after expiration of the protest period.

This creates a fundamentally unfair situation whereby interested bidders are expected to identify and raise responsiveness issues while simultaneously being denied access to the very documents necessary to evaluate those issues.

Without access to AMG's complete submission, Builders United cannot presently determine:

- Whether subcontractor listing documents were submitted.
- Whether subcontractor information was omitted.
- Whether supplemental forms were provided.
- Whether post-bid clarifications have occurred.
- Whether responsiveness reviews have been conducted.
- Whether AMG has asserted any clerical error claims.
- Whether AMG intends to seek subcontractor substitutions.
- Whether licensing and registration requirements have been satisfied.



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Accordingly, Builders United expressly reserves all rights to supplement this protest immediately upon receipt of the requested documents.

V. ADDITIONAL RESPONSIVENESS CONCERNS

Builders United further requests that the City investigate whether AMG's submission complies with all requirements contained within:

- The Notice Inviting Bids.
- Instructions to Bidders.
- PlanetBids electronic submission requirements.
- Community Workforce Agreement requirements.
- DIR registration requirements.
- Prevailing wage requirements.
- Public Contract Code subcontractor listing requirements.
- All mandatory bid forms and certifications.

If the City required subcontractor information to be entered directly into PlanetBids, and AMG failed to do so, such omission may independently constitute a material responsiveness defect irrespective of any separate attachment submitted elsewhere.

The City should determine whether AMG complied with every mandatory bid submission requirement exactly as required by the bid documents.

VI. REQUEST FOR COMPLETE INVESTIGATION

Builders United respectfully requests that the City conduct a comprehensive responsiveness review regarding AMG and specifically determine:

1. Whether AMG properly listed all required subcontractors.
2. Whether AMG submitted all mandatory subcontractor forms.
3. Whether AMG omitted any required subcontractor disclosures.
4. Whether AMG intends to self-perform any or all major scopes of work.



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5. Whether any portion of the work will ultimately be subcontracted despite the apparent lack of listed subcontractors.
6. Whether the bid complies with Public Contract Code Sections 4100 through 4114.
7. Whether AMG's bid is responsive in all respects.
8. Whether any post-bid communications, corrections, modifications, supplements, or clarifications have occurred.
9. Whether any nonresponsive conditions exist that require rejection of AMG's bid.
10. Whether award to AMG would be legally defensible in light of the issues raised herein.

VII. RESERVATION OF RIGHTS

Builders United expressly reserves the right to assert additional protest grounds after review of the requested records.

Nothing contained herein shall be construed as a waiver of any additional objections, claims, causes of action, statutory remedies, contractual remedies, or legal challenges that may become apparent upon review of AMG's complete bid submission or any subsequently disclosed documents.

Builders United further reserves the right to challenge any determination by the City that AMG's bid is responsive if such determination is made without providing adequate access to the records necessary for meaningful review.

VIII. REQUEST FOR RELIEF

Builders United respectfully requests that the City:

1. Accept this protest as timely filed.
2. Suspend award of the contract pending investigation of the issues raised herein.
3. Immediately produce AMG's complete bid package and all subcontractor listing information.
4. Produce any responsiveness review memoranda, staff recommendations, or bid evaluation documents related to AMG.



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5. Permit Builders United the opportunity to review such records and submit supplemental protest materials.
6. Determine whether AMG complied with all applicable subcontractor listing requirements.
7. Reject AMG's bid if the City determines that applicable subcontractor listing requirements or responsiveness requirements were not satisfied.
8. Delay any award recommendation until the matters raised herein have been fully investigated and resolved.

IX. CONCLUSION

The publicly available bid information currently indicates that AMG may have submitted a bid on an approximately \$18 million public works project while identifying no subcontractors whatsoever. Such circumstances warrant careful scrutiny under California's Subletting and Subcontracting Fair Practices Act and the City's competitive bidding requirements.

Given the significance of the project, the public interest involved, and the City's current inability to provide the requested records before expiration of the protest period, Builders United respectfully requests that the City defer award, investigate the matters described herein, and provide access to the requested bid documents before proceeding further.

Thank you for your prompt attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kallen Kildea'.

Kallen Kildea

President

Builders United, LLC



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September 30, 2026

City of Costa Mesa
Public Services Department
77 Fair Drive
Costa Mesa, CA 92626

Attn: Anna Baca

Attn: Arash Rahimian

RE: SUPPLEMENT TO FORMAL BID PROTEST
Fire Station No. 2 Reconstruction
City Project No. 26-05
Apparent Low Bidder: AMG & Associates, Inc.

Dear City Representatives:

Builders United, LLC previously submitted a formal bid protest regarding the bid submitted by AMG & Associates, Inc. for the Fire Station No. 2 Reconstruction Project. In that protest, Builders United expressly reserved the right to supplement its protest upon receipt and review of AMG's complete bid submission.

Following the City's production of AMG's bid documents and our subsequent review, Builders United has identified an additional issue concerning the DIR registration status of one of AMG's listed subcontractors. This letter supplements Builders United's previously submitted protest and should be considered together with that protest.

I. EXPIRED DIR REGISTRATION — AMERISCAPE LANDSCAPING CORPORATION

AMG's Designation of Subcontractors identifies Ameriscape Landscaping Corporation for the landscaping scope.

Builders United subsequently reviewed the California Department of Industrial Relations Public Works Contractor Registration records for Ameriscape Landscaping Corporation. The DIR search results reviewed by Builders United identify two registrations for Ameriscape, both showing a status of **"Registration Expired"**:

PWCR No. 1000836665 — Registration End Date: June 30, 2022

PWCR No. 1001141194 — Registration End Date: June 30, 2024



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The bid for this project was submitted in September 2026. Based upon the DIR records presently available to Builders United, we have not identified an active public works contractor registration for Ameriscape covering the date of AMG's bid.

California Labor Code Section 1771.1 generally provides that a contractor or subcontractor may not bid on, be listed in a bid proposal subject to Public Contract Code Section 4104 or perform public work unless currently registered and qualified pursuant to Labor Code Section 1725.5, subject to any applicable statutory exceptions or corrective provisions. The California Department of Industrial Relations likewise requires contractors and subcontractors performing public works to maintain appropriate registration.

Accordingly, Builders United respectfully requests that the City determine and document:

1. Whether Ameriscape Landscaping Corporation was actively registered with the DIR at the time AMG submitted its bid.
2. Whether Ameriscape held any active PWCR registration not reflected in the DIR records presently available to Builders United.
3. Whether Ameriscape subsequently registered or renewed its registration and, if so, the effective date of that registration.
4. Whether AMG or Ameriscape submitted any post-bid documentation relating to Ameriscape's DIR registration.
5. Whether AMG has requested, or intends to request, substitution of Ameriscape as the listed landscaping subcontractor.
6. Whether AMG's listing of Ameriscape complies with Labor Code Sections 1725.5 and 1771.1, the Contract Documents, and all applicable public works requirements.
7. Whether the City has determined that any exception, cure, or corrective provision under Labor Code Section 1771.1 applies to AMG's listing of Ameriscape and, if so, the factual and documentary basis for that determination.

DIR's contractor-registration requirements identify consequences associated with bidding on, being awarded, being listed on, or performing public work while a contractor or subcontractor is not properly registered.

Builders United therefore requests that the City produce any documentation establishing that Ameriscape was properly registered at the relevant time or otherwise satisfied any applicable statutory provision permitting its continued participation on the project.



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If no such documentation exists, Builders United respectfully requests that the City determine whether AMG's listing of Ameriscape qualifies for any applicable statutory exception, cure, or permissible substitution. If no such provision applies, Builders United further requests that the City determine the effect of Ameriscape's registration status on AMG's bid and on Ameriscape's eligibility to perform the listed landscaping scope.

II. REQUEST TO SUPPLEMENT EXISTING PROTEST

Builders United requests that this letter and the supporting DIR registration records be incorporated into and considered part of Builders United's previously submitted protest regarding AMG & Associates, Inc.

Builders United continues to reserve all rights previously asserted, including the right to further supplement its protest based upon additional records produced by the City or additional bid irregularities identified during review.

Thank you for your attention to this additional information. We respectfully request that the City address this issue as part of its review of AMG's bid before proceeding with any award determination.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Kildea'.

Kallen Kildea

President

Builders United, LLC