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June 18, 2025

Via U.S. Mail and electronic mail [Quinlan.Tom@wbd-us.com]

Quinlan Tom, Partner
Womble Bond Dickinson (US) LLP
50 California Street, Suite 2750
San Francisco, CA 94111

Re: Your Firm's Appeal Letter
Pinole Library Accessibility Upgrades Project
Project #WH433A

This responds to your June 10, 2025 letter, in which your firm appealed the Public Works Department's denial of the bid protest filed by your client (MVP) against the low bid submitted by Quiring General, LLC (Quiring) on the above project. Having carefully reviewed your client's appeal, as explained below, I have determined that all points raised by MVP are without merit and, therefore, the appeal is denied.

In your appeal letter, MVP has made the following objections to Quiring's low bid:

- (1) Failure to list a tile subcontractor; failure of Quiring to have a C54 Tile specialty license; inability of Quiring to get a Tile Council of North America, Inc. (TCNA) Master Grade Certificate; inability of Quiring to provide the manufacturer's special warranty for materials and workmanship [*new point first raised on appeal*].
- (2) Failure to list a certified, licensed arborist for Tree Work; failure of listed subcontractors to have a C61/D49 Tree Service specialty license.
- (3) Failure to list a lead abatement subcontractor despite a site survey showing lead presence in roofing; failure of listed demolition subcontractor (Roldan Construction Inc.) to have an abatement/hazmat specialty license.
- (4) Failure of Quiring to have 5 years' experience with tile work; inability of Quiring and its listed subcontractor (KZ Tile) to provide the 15-year special manufacturer's warranty for tile

installation; failure of KZ Tile to include 15-year warranty in its sub-bid [*new points first raised on appeal*].

Having reviewed MVP's original bid protest, Public Works' denial letter, your appeal letter, the authorities cited, and other pertinent materials, here is my determination of the points raised in MVP's appeal:

- (1) As recognized in your appeal letter, Quiring did receive a sub-bid from a tile subcontractor (KZ Tile). Quiring was not required by law to list KZ Tile because the sub-bid was less than one-half of 1% (see Public Contract Code Sect. 4104). According to CSLB records, KZ Tile has a valid C54 specialty license. Between Quiring's B license (the only one specified for this project) and KZ Tile's C54 license, there is no issue with the licensing for the tile work.

As for the TCNA certificate, that's a certificate required for the tile materials to be used on this project, not a certificate that Quiring or KZ Tile is required to possess (see Sect. 09 30 00). The allegations that Quiring and/or KZ Tile do not have 5 years' experience with tile work and will be unable to provide the required certificate and 15-year warranty have been raised for the first time on appeal, which prevents them from now being considered. Nevertheless, even if these allegations could now be considered, they are purely speculative and MVP has provided no documentation showing that Quiring and/or KZ Tile has insufficient experience with tile work or will be unable to provide the required certificate or warranty. By comparison, the sub-bid from MVP's tile subcontractor (Frost Tile) does not mention the required certificate or warranty and does not show that Frost Tile has sufficient experience and will be able to provide the required certificate and warranty. Thus, MVP is attempting to fault Quiring for something speculative that MVP itself did not comply with.

- (2) If required for the work, an arborist is a consultant, not a subcontractor that would need to be listed. Quiring intends to protect all pertinent trees on this project, will not be removing them, and will not have to hire an arborist. Even if tree removal were required, the A license of Quiring's listed subcontractor (Magellan Construction) and/or Quiring's B license would cover that work. As for MVP's allegation that an arborist will be required on this project, that is purely speculative and MVP has provided no documentation showing that an arborist will be required.
- (3) Although the site survey mentions the presence of lead in paint, such lead is below regulatory limits and would not require the hiring of a lead abatement subcontractor. MVP's allegations to the contrary are speculative and unsupported. Quiring has informed the County that any required paint removal will be done by their listed subcontractor (Roldan Construction, Inc.), which has a valid B license and various specialty licenses covering such demolition work.
- (4) See #1 above.
- (5) In your June 10, 2025 appeal letter, you cited various legal authorities for MVP's appeal, including statutes and cases. The cited authorities generally do not support MVP's position or are not relevant to the facts of this project. For example, Public Contract Code Section 20162 applies to cities, not to the County. Also, none of the cited cases (*DeSilva Gates*, *MCM*

and *Bay Cities*) are really relevant to MVP's position that Quiring's bid must be rejected because of alleged subcontractor issues. In fact, in the DeSilva Gates case, the court held that the low bid (DeSilva Gates) was improperly rejected because of a protest that a subcontractor was required to be listed but wasn't—the same issue that MVP is trying to fault Quiring for here.

- (6) Similar to Section 20162, Sections 22032(c) and 22038(b) require award to the lowest responsible bidder. In this case, the County has properly determined that Quiring is the lowest responsible bidder, which requires that the contract award be to Quiring, at a savings of \$152,000 for the County and its taxpayers over the 4th-place bid submitted by MVP.

For the sake of argument, even if Quiring's bid had any of the irregularities alleged by MVP, these would at most be considered minor irregularities that affect small portions of the work, that gave no actual competitive advantage to Quiring, that could easily be waived by the Board of Supervisors, and that do not require rejection of Quiring's low bid.

Based on the above, I have determined that MVP's appeal is without merit, that Public Works' denial of MVP's bid protest was correct, and that MVP's appeal must be rejected and denied. The Public Works Department has reviewed and evaluated the bids submitted and determined that Quiring is the lowest responsible bidder, having fully complied with all project requirements, including the Outreach Program requirements. Accordingly, they plan to recommend that the contract be awarded to the low bidder at the Board of Supervisors meeting on **June 24, 2025**, which begins at 9:00 a.m. If MVP still disagrees with the rejection and denial of its bid protest and appeal, you and/or MVP may appear and address the Board at that time.

Sincerely,



ERIC ANGSTADT
Chief Assistant County Administrator
Contra Costa County, CA

cc: Warren Lai, Public Works Director
Sarah Price, Public Works, Deputy Director
Jeff Acuff, Public Works, Capital Projects Div.
David F. Schmidt, County Counsel's Office
Michael J. George, County Counsel's Office