Columbia Electric Inc.

1980 Davis Street
San Leandro, CA 94577

Office 510.430.9505
Fax 510.430.1860

CA License No. 765902 A, C-10, DIR Contractors Registration #1000001478, WBE Certification 38529

[09/16/2026]

VIA EMAIL & OVERNIGHT MAIL

City of Hayward
Office of the City Clerk
Attn: City Clerk, City Engineer, City Council, Yama Farouqi, Alex Ameri, Michael Lawson, Jennifer Ott, Mary Thomas
777 B Street Hayward, CA 94541
Email: Miriam Lens <Miriam.Lens@hayward-ca.gov; Yama.Farouqi@hayward-ca.gov; Alex.Ameri@hayward-ca.gov; Michael.Lawson@hayward-ca.gov; Jennifer.Ott@hayward-ca.gov; Mary.Thomas@hayward-ca.gov>

Re: Columbia Electric, Inc.'s Response to Formal Bid Protest of St. Francis Electric, LLC Tennyson Park Streetlight Project, City of Hayward Project No. 06950 Bid Opening: September 1, 2026

Dear City Clerk, City Engineer, and Members of the City Council:
Columbia Electric, Inc. ("Columbia" or "Columbia Electric") submits this response to the formal bid protest filed by St. Francis Electric, LLC ("SFE") regarding the above-referenced project. Columbia respectfully requests that the City reject the untimely bid protest, confirm Columbia's bid as responsive, and proceed with award to Columbia as the lowest responsible and responsive bidder.

Procedurally, SFE's bid protest was late and must not be accepted or considered on those grounds alone.

Section 3-1.04A entitled Bid Protest Procedures specifically states:

"Any bid protest of the proposed award of bid to the bidder deemed the lowest responsible bidder must be submitted in writing no later than 5:00 p.m. on the fifth (5th) business day following the date of the bid opening."

Curiously, SFE's bid protest letter does not have a date listed (presumably because SFE knew it was late), but is stamped 9/10/26. Bid opening occurred on September 1, 2026. In order for a bid protest to be timely, it had to be submitted by 5:00 p.m. on September 8, 2026. That did not occur. Even if the Labor Day holiday was taken into account, the bid protest is still untimely, and cannot be considered.

In addition, there are various requirements in Section 3-1.04A, page 2, 1-6 that are supposed to included in the protest, including:

6. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving or being denied an award depending upon the outcome of the protest." That also did not happen. SFE utterly failed to comply with basic requirements to submit a proper bid protest for this project, and therefore waived its right to protest Columbia's bid.

Compliance with these procedures are mandatory pursuant to Section 3-1.04:

The procedure and time limits set forth in this paragraph are mandatory and are the bidder's sole and exclusive remedy in the event of a bid protest. The Bidder's failure to comply with these procedures shall constitute a

1980 Davis Street
San Leandro, CA 94577

Columbia Electric Inc.

Office 510.430.9505
Fax 510.430.1860

CA License No. 765902 A, C-10, DIR Contractors Registration #1000001478, WBE Certification 38529

waiver of any right to further pursue the bid protest, including filing a challenge of the award pursuant to the California Public Contracts Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.

The project should be awarded to Columbia Electric as the lowest responsible bidder.

I. PROPOSAL PAGE P-7 DOES NOT REFLECT AN ACKNOWLEDGMENT OF ADDENDUM NO. 3

Columbia acknowledged Addenda No. 1 and No. 2 on Proposal Page P-7 in its bid and an acknowledgment of Addendum No. 3 shortly thereafter. The question for the City is not whether the acknowledgment line was left unchecked, but whether that omission had any effect on the substance of Columbia's bid — that is, whether it changed Columbia's price, schedule, scope of work, or gave Columbia any advantage over other bidders. As set forth below, it did not.

In MCM Construction, Inc. v. San Francisco and County of San Francisco, (1998) 66 Cal.App. 4th 359, the court upheld the waiver of an inconsequential bid defect. There was no failure to list a supplier, separate subcontractor, or related information, and failing to initially acknowledge Addendum no. 3 is not a fatal flaw that would preclude the City from awarding the contract to the first responsible bidder, Columbia Electric, such failure to promise the construction services that the bidding documents seek, tardiness in submitting the bid, or licensing issues. See National Coach Corp. v. State Board of Control, (1982) 137 Cal.App.3d 750, 756. Addendum no. 3 contained immaterial items that were not consequential to the project.

II. COLUMBIA'S BID SUBMISSION ALREADY SATISFIES THE SUBSTANTIVE REQUIREMENTS OF ADDENDUM NO. 3

Addendum No. 3 made the following changes to the Contract Documents:

1. Revised Specification 8-1.03, Submittal, Page 49, Item 6 (pothole depths/elevations, utility locations, and bore profile);
2. Revised General Note 6 on Sheet 2 of 4, addressing steel plates and plywood cutback ramps for open trenches/excavations;
3. Attached City utility maps; and
4. Answered three contractor questions regarding (a) contract-day extensions for long-lead materials, (b) utility clearance depths (referencing Exhibit H, Table 1), and (c) bore pits within sidewalk areas (referencing Exhibit E and pending HARD coordination).

Regardless of the circumstances surrounding the acknowledgment omission, Columbia's bid as submitted already conforms to each of these items. Columbia's pricing already includes all labor, material, and equipment associated with the trench-plate/plywood requirement in revised General Note 6, and Columbia's proposed means and methods are consistent with the submittal requirements of revised Item 8-1.03(6) and with the clarifications provided in the addendum's Q&A regarding contract-day extensions, utility clearance depths, and bore pits in sidewalk areas. **Columbia's bid price, schedule, and scope of work are identical to what they would have been had the Addendum No. 3 acknowledgment box been checked.** No re-pricing, no change in schedule, and no change in scope would be required as a result of the omission.

1980 Davis Street
San Leandro, CA 94577

Columbia Electric Inc.

Office 510.430.9505
Fax 510.430.1860

CA License No. 765902 A, C-10, DIR Contractors Registration #1000001478, WBE Certification 38529

III. THE OMISSION IS AN INCONSEQUENTIAL IRREGULARITY THAT THE CITY'S OWN SPECIFICATIONS PERMIT IT TO WAIVE

Section 3-1.04A of the City's Specifications allows the City to waive a bid irregularity where it does not affect time of performance, quality of performance, or bid amount, and does not give the bidder an advantage or benefit not allowed to other bidders. Because Addendum No. 3 did not change Columbia's price, schedule, or scope of work, the omitted acknowledgment falls squarely within the category of irregularity the City's own Specifications contemplate waiving. Columbia gained no competitive advantage — informational, financial, or otherwise — by the omission, and reasserting the acknowledgment does not change a single term of Columbia's bid. The omission did not affect the amount of Columbia Electric's bid or give Columbia Electric an unfair advantage or benefit not allowed by other bidders pursuant to Konica Business Machines v. Regents of University of California, (1988) 206 Cal.App.3d 449, 454. Columbia Electric has made a good faith effort to submit documentation and information that is sufficient, and did not affect the price of the bid.

IV. THIS SITUATION IS DISTINGUISHABLE FROM THE AUTHORITY SFE CITES

SFE's protest relies heavily on *DeSilva Gates Construction, LP v. Department of Transportation* (2015) 242 Cal.App.4th 1409, where an agency allowed a bidder to submit post-opening evidence to try to establish that a substantive addendum had, in fact, been considered. Columbia's position is different in kind: Columbia is not asking the City to accept new evidence developed after bid opening to explain away a substantive change it failed to price. Columbia is asking the City to recognize what is already true on the face of the bid as submitted — that Addendum No. 3's requirements are already reflected in Columbia's numbers, because the addendum here did not change price, time, or scope in the first place, and are therefore immaterial. In contrast, in DeSilva Gates, there was an explicit statement by Caltrans that the failure to acknowledge a material amendment to the contract renders its bid non-responsive. See DeSilva at 1424. In this Project, the City does not state in Addendum No. 3 that any of the items listed were "material." In fact, they were not otherwise the City would have stated as such. Therefore, the City is entitled to waive the immaterial defect in Columbia Electric's bid, and award the project to it as the lowest responsible bidder.

V. REQUESTED RELIEF

Columbia respectfully requests that the City:

1. Find that SFE's bid protest was untimely and did not comply with the requirments Specifications Section 3-1.04A and therefore cannot be considered. That fact alone defeats the bid protest.
2. That notwithstanding, Columbia's omission of the Addendum No. 3 acknowledgment on Proposal Page P-7 is an immaterial defect under Section 3-1.04A of the Specifications and California law, and can be properly waived by the City;
3. Confirm that Columbia's bid price, schedule, and scope already conform to all requirements of Addendum No. 3 and waiver of the immaterial defect related to Addendum no. 3 did not give Columbia Electric an unfair advantage;
4. Deny SFE's protest and find Columbia's bid responsive; and proceed with award of the contract to Columbia as the lowest responsible and responsive bidder.

1980 Davis Street
San Leandro, CA 94577

Columbia Electric Inc.

Office 510.430.9505
Fax 510.430.1860

CA License No. 765902 A, C-10, DIR Contractors Registration #1000001478, WBE Certification 38529

Columbia is available to provide any additional documentation the City requires and welcomes the opportunity to proceed on this Project.

Respectfully submitted,

Gerrod Scruggs Vice President Columbia Electric, Inc. 510-430-9505 | gscruggs@columbia-elec.com 1980 Davis St, San Leandro, CA 94577