

Gordon N. Ball, Inc.

January 14, 2026 – Sent Via Email jmederos@srcity.org

General Engineering Contractors

Jose Mederos Baltazar – Assistant Engineer
City of Santa Rosa
69 Stony Circle
Santa Rosa, CA 95401

Tel 925.838.5675

RE: Response to Bid Protest from Ghilotti Construction Company, Inc.
Route 101 Bicycle and Pedestrian Overcrossing Contract No. C00769

Fax 925.838.5915

Dear Mr. Mederos Baltazar,

1777 Oakland Blvd, Ste 300

Gordon N. Ball, Inc. (“GNB”) is the apparent low bidder as to the City of Santa Rosa (“City”) “Route 101 Bicycle and Pedestrian Overcrossing Contract No. C00769” project. (“Project”). On January 12, 2026, apparent second-low bidder Ghilotti Construction Company, Inc. (“Ghilotti”) submitted a bid protest (“Protest”) seeking rejection of GNB’s bid. For the reasons stated below, the City should reject the Protest and award the Project to GNB.

Walnut Creek, CA 94596

Ghilotti’s sole Protest argument is that GNB’s initial bid submission purportedly did not include Equal Employment Opportunity Certification forms (“EEO Certification”) completed by GNB’s *subcontractors*. The Protest cites Instructions to Bidders, §24, added by Addendum No. 1. The EEO Certification was included in Addendum No. 1 as Revised Exhibit 12-G.

But on January 13, 2026, GNB submitted the subcontractor EEO Certifications, curing the error. The EEO Certification issue is an inconsequential error and should be waived by the City. **Exhibit 1** is GNB’s subcontractor certifications and acknowledgement of receipt from the City.

It is well established that bids need only to substantially conform to bid requirements and that awarding authorities may waive irregularities in any bid if they are deemed inconsequential. Ghilotti Construction Co. v. City of Richmond, 45 Cal.App.4th 897, 905 (1996). An irregularity is inconsequential if it did not affect the amount of the bid or give the bidder an unfair advantage. Id. In order to justify the rejection of a low bid, the irregularities’ impact on the bid price and its creation of an unfair advantage cannot be *speculative*, and the protesting party’s burden is to do more than simply point out the “potential” for a consequential impact. Id., at 905-06; MCM Construction, Inc., supra, at 376 fn. 6. Rather, the protesting party has the burden to show an *actual* impact on price and/or an actual unfair advantage. Id. Ghilotti has not met this burden.

The Protest seeks (unsuccessfully) to style this non-material error as being consequential via two arguments. First Ghilotti suggests GNB included this error *intentionally*, to give itself an unfair advantage, by permitting it an excuse to withdraw its bid per the Relief of Bidders Statute (Public Contract Code §5100 et seq.). But this classic bid protest argument has been called into question. Ghilotti Construction Co., *supra*, at 910-12. Even if that standard did apply here, it is clear that GNB could not have withdrawn its bid. Public Contract Code §5103 bars withdrawal in cases of carelessness in interpreting the contract documents. Insofar as any irregularity was determined here, it would be considered a case of misinterpretation, not an error in filling out the bid form. Furthermore, this theory amounts to no more than speculation about GNB's intentions.

Second, Ghilotti suggests GNB sought an unfair advantage by availing itself of extra bid closing time, achieved by ignoring the EEO Certification subcontractor requirements. Ghilotti does not articulate why this speculative scenario would amount to an unfair advantage, and it certainly would not impact pricing.

Further GNB has reason to believe that *in practice* no actual differential advantage existed between GNB and Ghilotti in terms of obtaining subcontractor EEO Certifications. Ghilotti contends it was forced to devote "needed time to collect from its subcontractors and transmit that information to the bid runners at the bid location." The unfair advantage Ghilotti speculates existed is that GNB skipped this step, while Ghilotti did not. GNB's discussions with subcontractors regarding EEO Certifications dispel this notion. Multiple subcontractors listed by both GNB and Ghilotti have confirmed they did not confer with Ghilotti pre-bid opening about the EEO Certifications. This includes subcontractors Mike Brown Electric Co., Adams & Smith, Inc., Marina Landscape Inc., and NMI Industrial Holdings, all four (4) firms have confirmed they never spoke to Ghilotti regarding the EEO Certification. Thus, Ghilotti did not actually devote additional time collecting the subcontractor forms. Also relevant on this point is that the handwritten portions of Ghilotti's subcontractor certification forms are clearly all written by the same hand, suggesting that Ghilotti did not actually obtain each form from their respective subcontractors, and clearly, they did not get approval to complete the certification from at least four (4) firms. Ghilotti's burden is to establish an actual unfair advantage, not a speculative advantage. The evident facts show no advantage existed.

Ghilotti's protest fails to meet the required burden to establish an error, and to the extent any irregularity is deemed, it should be waived as inconsequential. As the court in Ghilotti Construction Co. succinctly stated,

[The waiver of bid irregularities] must be evaluated from a practical rather than a hypothetical standpoint, with reference to the factual circumstances of the case. They must also be viewed in light of the public interest, rather than the private interest of a disappointed bidder. It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal or license application of the low bidder after the fact, [and] cancel the low bid on

minor technicalities, with the hope of securing acceptance of his, a higher bid. Such construction would be averse to the best interests of the public and contrary to public policy. At 908-09.

Gordon N. Ball, Inc. is the lowest responsible bidder for the Route 101 Bicycle and Pedestrian Overcrossing project. The bid of Gordon N. Ball, Inc. is best value, and there are no questions of integrity with its contents. Gordon N. Ball, Inc. is ready to partner with the City of Santa Rosa for the successful completion of this major and important improvement to the transportation infrastructure of the City.

Sincerely,
Gordon N. Ball, Inc.

A handwritten signature in black ink, appearing to be 'H. Stober', written over a horizontal line.

Hal Stober
President

CC:
Ghilotti Construction Company, Inc.
e-mail: tom@ghilotti.com; laura@ghilotti.com

Attachment:
Exhibit 1 - GNB's subcontractor EEO Certifications and acknowledgement of receipt from the City

EXHIBIT 1

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder GORDON N. BALL, INC., proposed subcontractor
ADAMS & SMITH, INC., hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.



EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
Dees Burke Engineering, hereby certifies that he has X, has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

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EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
Devincenzi Concrete, hereby certifies that he has **X**, has not ____, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

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Chris Dahl
Devincenzi Concrete

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
Farwest Safety, Inc, hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

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Hidi Hinkle

Hidi Hinkle / Estimating Administrator
Farwest Safety, Inc

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, proposed subcontractor
Malcolm Drilling Company, Inc., hereby certifies that he has x, has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

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Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.


Lindsay Kelcourse
Business Manager

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
Marina Landscape, Inc, hereby certifies that he has , has not X, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

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Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.



Ali Tavakoli - Vice President

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
MARTINEZ STEEL, LLC, hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

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Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

MARTINEZ STEEL, LLC



JOHN HICKMAN
ESTIMATING MANAGER
1/13/2026

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Gordon N. Ball, Inc., proposed subcontractor
Mike Brown Electric Co., hereby certifies that he has X, has not , participated in a
previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or
11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal
Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on
Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41
CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with
contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are
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other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract
Compliance, U.S. Department of Labor.



EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

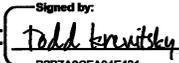
The bidder Gordon N. Ball, Inc., proposed subcontractor NMI Industrial Holdings, LLC., hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

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Company: NMI Industrial Holdings, LLC.

Signature:  _____
Signed by:
B2B7A0CFA04F431...

Name: Todd Krevitsky

Title: COO

From: [Mederos Baltazar, Jose](#)
To: [Serina Sirna-Blach](#)
Cc: [Hopwood, Kimberly](#); [Welsh, Lisa](#); [estimating](#)
Subject: RE: [EXTERNAL] C00769 Route 101 Bicycle and Pedestrian Overcrossing - EEO Certifications - Subcontractors
Date: Tuesday, January 13, 2026 1:43:54 PM
Attachments: [image003.png](#)

Hi Serina,

We have received the EEO Certifications.

Thank you,

Jose Mederos | Assistant Engineer

Capital Projects Engineering | 69 Stony Circle | Santa Rosa, CA 95401
Tel. (707) 543-3915 | Cell (707) 494-5418 | jmederos@srcity.org



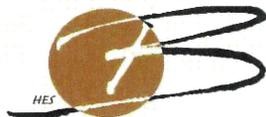
From: Serina Sirna-Blach <ssirna@ballconco.com>
Sent: Tuesday, January 13, 2026 1:29 PM
To: Mederos Baltazar, Jose <JMederos@srcity.org>
Cc: Hopwood, Kimberly <KHopwood@srcity.org>; Welsh, Lisa <LWelsh@srcity.org>; estimating <estimating@ballconco.com>
Subject: [EXTERNAL] C00769 Route 101 Bicycle and Pedestrian Overcrossing - EEO Certifications - Subcontractors

Hi Jose,

Attached are the EEO Certification forms Hal mentioned that we would be sending over to you

Please confirm receipt

Thank you!



Serina Sirna-Blach
Estimating Administration

Gordon N. Ball, Inc. | General Engineering Contractors

1777 Oakland Blvd, STE 300 | Walnut Creek, CA 94596 ****NEW ADDRESS**

(925) 838-5675 x 2309 | phone

(925) 838-5915 | fax

[website](#) | [vCard](#) | [map](#) | [email](#)