



**Bid Protest Rebuttal by Metrocell– Re: Murrieta Creek Trail Solar Lights
Failure to List Required Subcontractors**

To:

City of Temecula – City Clerk’s Office
41000 Main Street
Temecula, California 92590

Dear Randi Johl, Legislative Director / City Clerk,

Pursuant to and in compliance with the City of Temecula’s Municipal Code and Bid Protest Procedures (attached for reference), we hereby submit this formal rebuttal to the protest regarding the bid submitted by Metrocell for the Murrieta Creek Trail Solar Lights Project.

Identification of Bid and Project

This protest concerns the bid submitted by Metrocell for the City of Temecula’s Murrieta Creek Trail Solar Lights Project.

Project No.: PW21-13

Bid Opening Date: 06/03/2025 10:00 AM (PDT)

On **Page P5 (Page 35 of the Front-End Documents)**, the contract documents clearly state:

“ALL SUBCONTRACTORS REGARDLESS OF DOLLAR VALUE SHALL BE LISTED.”

Despite this mandatory requirement, Metrocell wrote “NONE” for all subcontractors. This is a material omission given that the contract requires:

- A **qualified biologist** (for nesting bird surveys – per SP-3), and
- A **licensed land surveyor** (for staking, control, and as-builts – per SP 3-10, 3-10.1, 10-03).

Metrocell Counterarguments and Rebuttals:

Metrocell Response: These are **licensed professional services/ independent consultants**. The bid documents **do not** classify them as subcontracted scopes.

My surveyor has a **DIR registration but is not subject to prevailing wage (see below) the DAVIS-BACON AND RELATED ACTS AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT15e20**

ASAD Holdings LLC dba OrangeBlue General Contractors admits in their protest that the biologist or surveyor is a Licensed professional service instead using the term “subcontractor”.

Metrocell Counterargument Regarding Prevailing Wage Compliance: Field Operations Handbook - Chapter 15
**DAVIS-BACON AND RELATED ACTS AND CONTRACT WORK HOURS AND SAFETY STANDARDS
ACT15e20 Survey crews.**

(a) Where surveying is performed immediately prior to and during actual construction, in direct support of construction crews, such activity is covered by DBRA. Under the U.S. Housing Act of 1937 and the Housing Act of 1949, the development of the project coverage test is broader and may also cover preliminary survey work.

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(b) The determination as to whether certain members of survey crews are laborers or mechanics is a question of fact. Such a determination must take into account the actual duties performed. **As a general matter, members of the survey party who hold the leveling staff while measurements of distance and elevation are made, who help measure distance with a surveyor chain or other device, who adjust and read instruments for measurement or who direct the work are not considered laborers or mechanics.** However, a crew member who primarily does manual work, for example, clearing brush, is a laborer and is covered for the time so spent. (Metrocell will complete the labor work necessary for the surveyor to complete their work.

4. Conclusion

If a surveyor or biologist is considered a Sub-contractor. Then a deputy inspector, soils inspector, or any consultant that Works for the prime contractor would have to be a Sub-contractor.

5. Recommendation:

This is a declaratory decision that can be made by the city of Temecula determining whether a Survey, biologist, deputy inspector, consultant.... is a Sub-contractor.

We respectfully request that the City of Temecula **dismiss this bid protest by ASAD Holdings LLC dba OrangeBlue General Contractors** and proceed with award to Metrocell a responsive bidder.

Sincerely,
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07/2/2025

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