

**BORTOLUSSI & WATKIN, INC.**

*General Landscape Contractors*

77 LARKSPUR ST SAN RAFAEL, CA 94901-4886 Lic # 962905

Phone 415-453-4675 415-453-2978 Fax

May 13, 2013

John C. McMillan, Deputy  
 State of California, Department of Transportation  
 Division of Engineering Services  
 Office Engineer, MS 43  
 1726 30th Street  
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RE: BID PROTEST #02 RESPONSE 1  
 Ct#: 04-2G3614 (bid date: 4/9/2013)

Dear John C. McMillan:

This letter is to further emphasize that Empire Landscapes (EL) incorrectly completed the Subcontractor list column 3 by specifying percentages for partial bid items as admitted on their response to Bortolussi & Watkin, Inc. (B&W) Bid Protest 2 dated May 7, 2013.

EL admits to incorrectly completing the subcontract list column 3. EL states the following: *"Empire did list the subcontractors work percentage compared to our total bid amount. These subcontractors will perform 100% of their bid items we listed them on".* The Subcontractor List in Column 3 states: Percentage of Bid Item Subcontracted. It also states the following: Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

EL also admits to "the minor error in column #3." Even though it "didn't do any harm to any of the subcontractors" or that it's a minor error, the fact still remains that EL did not complete the subcontractor list column 3.

B&W likes to bring attention to EL's Global Environmental Network (GEN) bid items to point out EL's incorrectness and incompleteness in the following table:

Bus. Name	Bid Item	Unit	% Bid	EL Bid	Actual Bid
GEN	1	LS	2.2%	1,000.00	22.00
	2	LS		15,000.00	330.00
	3	LS		10,000.00	220.00
	4	LS		1,500.00	33.00
	6	LS		1,500.00	33.00
	7	EA		16,000.00	352.00
	8	EA		10,000.00	220.00
	9	EA		4,000.00	88.00
				59,000	1,298.00

EL incorrect subcontractor list is more evident when compare to EL's DVBE list. EL listed GEN for \$24,485.00 or 2.2 percent of their total bid. However, if EL upholds that the

subcontractors will perform 100 percent of their bid item, GEN will have to perform \$59,000 worth of contract work or approximately 5.19 percent and not 2.2 percent at it shows in the subcontract list column 3. Consequently, EL's DVBE will have to be approximately 5.19 or \$59,000 for GEN along. It will increase EL's DVBE goal. Further proofing that EL's subcontract list percentage listed is inaccurate and incomplete.

On the other hand, if GEN will perform \$1,298 worth of contract for items 1, 2, 3, 4, 6, 7, 8, and, 9, EL's DVBE list would have the incorrect as well.

B&W also like to bring attention to USC Supply (USC) listed by EL for items 11, 12, 13, and 76 as another example of their incorrectness and incompleteness on the following table:

Bus. Name	Bid Item	Unit	% Bid	EL Bid	Actual Bid
USC Supply	11	LF	3.0%	1,200.00	36.00
	12	EA		7,200.00	216.00
	13	LF		32,100.00	963.00
	76	LF		31,800.00	954.00
				72,300.00	2,169.00

USC was listed to perform only 3 percent of the work for all items listed above. As the table shows, 3 percent of their total bid would be \$2,169 for their bid. Furthermore, B&W likes to point out that USC is a materials supplier only. However, USC is listed as a subcontractor to perform 100 percent of the listed bid items.

Again, EL listed USC for \$32,301 on their DBVE. However, as the table shows above, USC would have to perform approximately \$72,3000 worth of contract. Yet, EL claims that their subcontractors will perform 100 percent of their bid items.

The incorrect subcontractors list continues with the rest of the subcontractor list as following:

1. Bullseye Boring (Item 72 totaling \$6,400) - Listed at .6% or \$38.40.
2. Selby's Soil (Items 10,16,74,75,77,78 totaling \$44,780) - Listed at 3% or \$1,343.40.
3. No Fault Asphalt (Items 80,81,82 totaling \$14,700) - Listed at 1.5% or \$220.50
4. Bailey Fence (Items 19,86 totaling \$26,140) - Listed at 3% or \$784.20.

EL claims that it exceeded their DVBE goal on this project. However, if EL exceeded their DVBE goal, EL has the incorrect subcontractors list. On the other hand, if EL's subcontractor list is correct, than EL's DVBE is incorrect.

EL has failed to properly complete information in column 3 of the subcontractors list. EL also admits to their mistake of listing percentages that reflect the total amount of their bid rather than a percentage of the bid item subcontracted.

Thank you for your time and consideration.

Sincerely,

Raul Garcia,