PACIFIC PARKS LANDSCAPING

June 15, 2015

Via Facsimile Transmittion-916-227-6282 and US Mail

Mr. John McMillan
DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
Office Engineer, MS 43
1727 30TH Street
P.O. Box 168041
Sacramento, CA 95816

RE: CalTrans Contract #01-262064, for Construction adjacent to the State Highway in Mendocino County near Willits at Assessor's Parcel Number 108-030-0500 in District 01 on Route 101

FORMAL PROTEST OF BID SUBMITTED BY BORTOLUSSI & WATKIN, INC.

Dear Mr. McMillan,

Please accept this letter to be a formal protest of the bid submitted by Bortolussi & Watkin, Inc. (BWI) on the project noted above. The bid turned in by BWI is non-responsive and therefore must be rejected based on the Department's bidding requirements, strictly enforced policies and prior CalTrans' rulings.

Incorrect Percentage of Bid Items Subcontracted

Upon review of the bid summary listings provided by CalTrans' website on this project, it is clear that BWI incorrectly filled out the required Subcontractor List. Specifically on BWI's second listed subcontractor, BWI listed J&M Land Restoration, Inc. (J&M) performing work on bid item #26, Straw (Native Grass) and item #27, Incorporate Materials. On that same form BWI noted that J&M would be performing 93.8% of item 26 and 54.24% of item 27. These percentages represent the percentage of J&M's bid to BWI's bid item totals, rather than the actual percentage of work to be performed by J&M on the project.

Notably, J&M's bid of $69,881 for item 26 is 93.8% of BWI's bid total for this item (69,881/74,500) as improperly disclosed on BWI's subcontractor list, however, per J&M's bid proposal dated April 23, 2015, J&M is performing 1,490,000 square feet of the work, which represents 100% of the total quantity for this item. Additionally, J&M's bid of $8,081.76 for item 27 is 54.24% of BWI's bid total (8,081.76/14,900.00) as improperly disclosed on BWI's subcontractor list, however, per J&M's bid proposal dated April 23, 2015, J&M is performing 1,490,000 square feet of the work, which represents 100% of the total quantity for this item.

CalTrans' Standard Specification Section 2-1.33C requires bidders to list each subcontractor who is to perform work in an amount in excess of ½ of 1 percent of the total bid or $10,000, whichever is greater (Pub Cont Code § 4100 et seq.). The *Subcontractor List* must show the name, address, and work portions to be performed by each subcontractor listed and include the work portions by bid item number, description, and percentage of each bid item subcontracted. Because this specification requires the bidder to list the portion of work to be performed by each subcontractor rather than percentages of bid items, BWI should have listed J&M as performing 100% of items 26 and 27, rather than 93.8% and 54.24%, respectively.

In addition to the Section 2-1.33C requirements that BWI has not met, CalTrans has ruled on four separate occasions, as noted below, that any deviation from this requirement, in that if a subcontract percentage is product of the total bid item and not the percentage of work being done on the individual bid item list, CalTrans must consider a bid non-responsive. The four similar instances of this requirement that offers precedential authority are as follows:

1) August 5, 2014, project #08-3401U4; USS CalBuilders, Inc.;
2) August 25, 2014, project #07-183124; Martinez Landscape Company, Inc.;
3) March 2, 2015, project #01-262054; IO Environmental & Infrastructure
4) May 14, 2015, project #01-493704; McCullough Construction, Inc.

CONCLUSION

Based on the information presented herein, governing regulations, specifications, and protest precedents, the bid provided by BWI should be rejected as non-responsive. Therefore, Pacific Parks Landscaping, Inc. respectfully and formally requests that the Department uphold and validate our bid protest.

If we can provide any further information regarding this matter, please feel free to contact me at 916-253-0204.

Very truly yours,
PACIFIC PARKS LANDSCAPING, INC.

Dan McElvain, CPA
Chief Financial Officer
Encl

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 01-262064 Project ID: 0115000012
Bidder Name:Bortolussi & Watkin, Inc. Bidder ID:VC1200002869
DES-OE-0102.2B(REV 5/2014)

Bidding Firm: Bortolussi & Watkin, Inc.

List this sub? Yes

1) Business Name J & M Land Restoration, Inc.
Location City Bakersfield State CA
California Contractor License Number 508089
CA Department of Industrial Relations' Registration Number 1000003397
Portion of Work Subcontracted:

Item	%	Description
8	100	
9	99.93	Temporary Tacked Straw - PARTIAL
23	100	
24	99.95	Erosion Control (Dry Seed)- PARTIAL
25	99.79	Erosion Control (Drill Seed)- PARTIAL

List this sub? Yes

2) Business Name J & M Land Restoration, Inc.
Location City Bakersfield State CA
California Contractor License Number 508089
CA Department of Industrial Relations' Registration Number 1000003397
Portion of Work Subcontracted:

Item	%	Description
26	93.80	Straw (Native Grass) - PARTIAL
27	54.24	Incorporate Materials - PARTIAL

List this sub? Yes

3) Business Name Green Valley Consulting Engineers
Location City Santa Rosa State CA
California Contractor License Number N/A
CA Department of Industrial Relations' Registration Number 1000005536
Portion of Work Subcontracted:

Item	%	Description
4	100	
5	100	
6	100	
7	55	Storm Water Annual Report - PARTIAL

Revised

J&M
LAND RESTORATION, INC

1640 James Road, Bakersfield, CA 93308
(661) 872 7039 - office (661) 399 8882 (fax)
WMBE Cert CUCP – OBE CT 32481; CDA -1246, Small Business
CA Lic. # 908869, Nev. License 0040577, DIR # 1000061387
Bond rate 2.5%
Union: No. & So. Calif. Laborers

Project: 01-262068 __Willits at Assessors Parcel #108-030-05-00
Addendums: 3
Price good for 30 days
Estimator: Tony Fernandez
E-Mail: tfernandez@jmlandrestoration.com
Date: April 23, 2015

Bid Item	Description	Quantity Each	Unit Price	Extended Price
8	Move-in/Move out (Temporary E.C.)	30 EA	$1,050.00/EA	$1,050.00/EA = $31,500.00
9	Temporary Tacked Straw	2,600/SY	$1.6088/SY	$4,182.88
~~10~~	~~Temporary Fiber Roll~~	~~15,000/LF~~	~~$4.162/LF~~	~~$62,430.00~~
23	Move-in/Move Out (Erosion Control)	5 EA	$1,050.00/EA	$1,050.00EA = $5250.00
24	Erosion Control (Dry Seed)	2 AC	$1,174.42/AC	$2,348.84
~~25~~	~~Erosion Control (Drill Seed)~~	~~32 AC~~	~~$306.34/AC~~	~~$9,802.88~~
26	Straw (Native Grass)	1,490,000/SF	$.0469/SF	$69,881.00
27	Incorporate Materials	1,490,000/SF	$.005424/SF	$8,081.76
			Total	$131,047.76

*General Contractor may elect to perform item # 10.

Exclusion/Qualifications/Remarks: Work day is from 7:00 – 3:30 - 8 hr. day – Mon. to Fri. Bid does not include any overtime, weekends or holiday work.
The General Contractor (GC) and/or owner is to provide: the traffic control, water at the seeding site at 350GPM with a 4,000 gal truck, access to the site for regular highway vehicles (top and bottom), also GC is to provide any soil preparation necessary; i.e: salvage or placement of topsoil, duff, incorporate, weed removal, plant establishment, etc.
The price of straw is based on being applied pneumatically. Bid is based on J&M's current insurance.., any additional insurance required can be supplied at an additional cost to be paid by GC. The GC is liable for any overages on bid item quantities. J&M will not accept any back charge or deduction to the contract unless proper notification is given in writing. No retention is to be withheld.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 01-262064 Project ID: 0115000012
Bidder Name:Bortolussi & Watkin, Inc. Bidder ID:VC1200002869

BID ITEM LIST

Item No.	Item Code	Item Description	Estimated Quantity / Unit of Measure	Unit Price	Item Total	
25	210221	EROSION CONTROL (DRILL SEED) (ACRE)	32.0 ACRE	307.00	9,824.00	
26	028725	STRAW (NATIVE GRASS)	1,490,000.0 SQFT	0.05	74,500.00	*
27	210630	INCORPORATE MATERIALS	1,490,000.0 SQFT	0.01	14,900.00	*
28	BLANK		LUMP SUM LS	LUMP SUM	0.00	
29	170101	DEVELOP WATER SUPPLY	LUMP SUM LS	LUMP SUM	400,000.00	
30	028824	CONTRACTOR SUPPLIED NURSERY	LUMP SUM LS	LUMP SUM	592,472.00	
31	999990	MOBILIZATION	LUMP SUM LS	LUMP SUM	420,000.00	
	Total Bid				$4,275,232.00	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P.O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought. Help save water!

August 5, 2014

Facsimile: (714) 503-6805

Eric Othman, Secretary
USS Cal Builders, Inc.
8051 Main Street
Stanton, CA 90680

08-3401U4
08-SBd-2, 138-6.2/6.4,2.3/R15.2
B.O. 07/24/2014

Dear Mr. Othman:

The Department of Transportation (Caltrans) received a bid submitted by USS Cal Builders, Inc. (Cal Builders) for Contract 08-3401U4 on July 24, 2014. By this letter, Caltrans notifies Cal Builders that its bid is nonresponsive because it failed to properly complete the Subcontractor List form.

Caltrans 2010 revised Standard Specifications, Section 2-1.33C states in part, "*...The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted*". On the Subcontractors List form under Percentages of Bid Items Subcontracted, Cal Builders listed percentages that are representative of the total contract bid, rather than the percent of work to be performed.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulisa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P. O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6280
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought. Help save water!

August 25, 2014

Facsimile: (818) 364-9188

Salvador Martinez, President
Martinez Landscape Company, Inc.
12357 San Fernando Road
Sylmar, CA 91342

07-183124
07-LA-710-9.8/18.4
B.O. 08/14/14

Dear Mr. Martinez:

The Department of Transportation (Caltrans) received a bid submitted by Martinez Landscape Company, Inc. (Martinez) for Contract No. 07-183124 on August 14, 2014. By this letter, Caltrans notifies Martinez that its bid is nonresponsive.

> *Section 2-1.33C, Subcontractor List. On the Subcontractor List, list each subcontractor to perform work in an amount in excess of 1/2 of 1 percent of the total bid or $10,000, whichever is greater (Pub Cont Code Section 4100 et seq). The Subcontractor list must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted.*

Caltrans reviewed the bid documents from Martinez and was unable to determine the amount of work to be subcontracted for Statewide Traffic Safety & Signs.

Based on the above, Caltrans will proceed to award this contract to the lowest responsible bidder, provided that all requirements have been met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

for JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P.O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought.
Help save water!

March 25, 2015

Facsimile: (619) 677-5648

Alicia M. Gervasi, CFO
IO Environmental & Infrastructure, Inc.
2840 Adams Avenue, Suite 301
San Diego, CA 92116

01-262054
01-Men-101-45.0/50.
B.O. 3/12/2015

Dear Ms. Gervasi:

The Department of Transportation (Caltrans) received a bid submitted by IO Environmental & Infrastructure, Inc. (IO Environmental) for Contract 01-262054 on 3/12/2015. By this letter, Caltrans notifies IO Environmental that its bid is nonresponsive because it failed to properly complete the Subcontractor List form.

IO listed Ahtna Design-Build (Ahtna), Inc. to perform work described as bid items 8 and 9, Storm Water Annual Report, Move-In/Move-Out (Temporary Erosion Control) and allocated 0.792 percent or $74,962.83 of the total bid to Ahtna. In addition, Ahtna was also listed as the sole Disadvantaged Business Enterprise (DBE) and the quote submitted in response to the bid shows that Ahtna quoted $6,000 for bid item 8 and $68,987 for bid item 9, which totals $74,987.

The Subcontractor List also identified Selby's Soil Erosion Control Company, Inc. to perform work which includes bid items 9 and 10, Move-In/Move-Out (Temporary Erosion Control) and Temporary Tacked Straw and identified the portion of work to be performed as .1955 percent or $18,882.68 of the total bid. Accordingly, the combined amount to be subcontracted is (93,845.51 or .99 percent of the total bid). These bid items total $205,500.00 or 2.171 percent of the total bid.

Caltrans bases all decisions on contract awards on the bid documents. Since IO presented percentages of work assigned to subcontractors based on the total bid, rather than the percent of work to be performed, and because IO listed two subcontractors for performing work related to bid item 9, Caltrans is unable to determine if the bid meets the requirements of Public Contract Code 4106 as Caltrans cannot determine the allocation of work for bid item 9 between Ahtna and Selby's.

Furthermore, under 4106, a finding that two or more subcontractors performing the same portion of work provides that the prime must self perform the overlapping work. For this bid, the work of Ahtna would no longer be eligible for the Disadvantaged Business Enterprise (DBE) participation for bid item 9 and IO's DBE Commitment would fall below the stated goal for the contract.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
P.O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov

Serious drought.
Help save water!

May 14, 2015

Facsimile: (707)825-1769

Hugh M. McCullough Jr., President
McCullough Construction Inc.
57 Alder Grove Road
Arcata, CA, 95521

01-493704
01-Hum-96-11.0/R13.2
B.O. 04/07/2015

Dear Mr. McCullough:

The Department of Transportation (Caltrans) received a bid submitted by McCullough Construction Inc. (McCullough) for Contract 01-493704 on April 07, 2015. By this letter, Caltrans notifies McCullough that its bid is nonresponsive.

Caltrans 2010 Revised Standard Specifications, Section 2-1.33C states in part, "*...The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted*".

The percentages listed appear to be the percentage of the total bid amount, not the percentage of each individual bid item listed. Therefore, Caltrans was unable to determine if the bid meets the requirements of Public Contract Code 4106 as it relates to the allocation of work for the bid items subcontracted.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

for

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services