

MICON CONSTRUCTION

GENERAL BUILDING CONTRACTORS

License #744198 CA # 154926 AZ

January 30, 2009

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

VIA EMAIL: jfolcik@ci.costa-mesa.ca.us
bmejia@ci.costa-mesa.ca.us
ATTN: Julie Folcik, City Clerk
Bart Mejia-Senior Engineer, City of Costa Mesa
RE: Fairview Park Improvements

Dear Ms. Folcik and Mr. Mejia:

We would like to officially protest the apparent low bidder for this project, Jeff Tracy, Inc., DBA Land Forms Landscape Construction (LFLC).

Firstly, LFLC, is the apparent low bidder based on an inconsistent, improper and unfair bid. Their base bid total on sheet P-1a, written in figures, \$353,442.80 is in conflict and inconsistent with the written word total on sheet P-1e for \$363,869.00. Please reference LFLC sheet P-2, they have written in words and figures the amount totaling 10% of \$363,869.00 for a total of \$36,386.90, only reinforcing the legal, written amount for the higher total showing in written words in two separate places on their bid form, their bid is for \$363,869.00. Please reference California Commercial Code 3114 'If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both and words prevail over numbers'.

Secondly, please refer to P-1e, to reinforce my first point, the total base bid is written in words and figures in the amount of \$363,869.00, then LFLC signed this page to affirm his base bid total of \$363,869.00.

Secondly, please reference the spec book for this project, page B-1, Item 3—BID SECURITY which I am attaching. This section specifically states that 'the bid security shall be in an amount not less than 10% of the maximum amount of bid, which in the case of the apparent low bidder is \$ 808,778.80 or 10% of that total which is \$80,877. Their accompanying bidder's bond, as written in words on page P-2, is only for \$ 36,386.90, thereby disqualifying them as their bid bond is not for the required maximum amount of bid. Please see the Micon bid form, page P-2, our bid bond is for 10% (\$91,506.00) of the maximum amount of the bid, , as specified by your spec book/bid instructions.

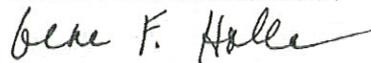
We look forward to working with you on this project.

Thanks for your consideration in this matter.

Should you have any questions, please feel free to call me.

Sincerely,

MICON CONSTRUCTION



Gene F. Holle
President