

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER, MS 43  
1727 30<sup>th</sup> STREET  
P. O. BOX 168041  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6280  
FAX (916) 227-6282  
TTY 711



*Flex your power!  
Be energy efficient!*

May 22, 2013

Facsimile: (530) 926-2118

Harold Knight, President  
Shasta Services, Inc., dba Timberworks  
P.O. Box 1240  
Mount Shasta, CA 96067

01-0C1304  
01-Hum, Men-271-0.0/T0.2, 6.1/22.7  
B.O. 03/27/2013

Dear Mr. Knight:

The Department of Transportation (Caltrans) received the attached letter submitted by Shasta Services, Inc., dba Timberworks (Timberworks) dated May 3, 2013, protesting a nonresponsive bid finding for Contract 01-0C1304.

Timberworks alleges that they did not add a new scope of work in column 2, and adding bid item numbers to complete column 2 is not an improper change to the Subcontractor List form.

Caltrans has reviewed the bid documents, and upholds its original finding that the inclusion of bid items 1 and 3 on the 24 hour Subcontractor listing did constitute an improper change to the Subcontractors listing and therefore, rendered the bid nonresponsive.

Based on the above finding, Timberworks is not eligible for award of this contract and Caltrans will proceed to award this contract to the lowest responsible bidder, provided that all requirements are met.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN", written over a horizontal line.

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



General Building & Engineering Contractors  
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**TIMBERWORKS**

May 3, 2013

John McMillan  
California Department of Transportation  
Office Engineer  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816  
Via FAX: (916) 227-6282

Re: Contract 01-0C1304, Additional Info on Non-Responsive Determination

Hello Mr. McMillan,

Caltrans sent us a letter dated April 25, 2013, in which Timberworks was notified that its bid on contract 01-0C1304 was non-responsive. I responded with a letter dated April 29, 2013 (but faxed on April 28, 2013) protesting that finding and provided information and a rebuttal to the narrow grounds stated in that letter.

I then spoke with Earl Seaberg on May 2, 2013 and he educated me about the process and reasoning Caltrans employs when evaluating the Subcontractor List form and its 24 hour submission. After learning more about this evaluation process, I thought it would help to provide you with more information regarding our actions.

### **Additional Information**

We maintain that we merely completed columns 2 and 3 on the Subcontractor List form as the instructions commanded. I would like to provide additional information that demonstrates that no bid shopping occurred nor could it have occurred. The primary piece of evidence for this assertion is the bid from Central Striping, the subcontractor we chose to provide striping and reflectors. I have attached a full copy of their bid as we received it on bid day. I have attached a copy of the bid for this same job from GENI who is the subcontractor listed to provide our lead compliance plan for Earth Material Containing Lead. I have also attached a copy of the bid for this same job from Apply-A-Line (AAL) who is the primary striping subcontractor in Districts 1 and 2.

The action that lies at the heart of this issue is the addition of bid item numbers 1 and 3 to Central Striping's column 2 entry.

## TIMBERWORKS

With respect to the addition of bid item number 1 to column 2, note that bid item 1 is the Lead Compliance Plan (LCP). On this job, there were 2 LCPs required. One LCP was required for Earth Material Containing Lead and the other was for thermoplastic striping removal. We listed GENI for bid item 1 on both versions of our Subcontractor List form. We decided to add bid item 1 to Central Striping to more fully describe the work we expected them to do. The amount for the LCP from Central Striping was under the threshold for listing on the Subcontractor List form but we chose to do list it anyway in the spirit of full disclosure. It is standard industry practice for the striping subcontractor to provide the LCP for their work. No striping subcontractor wishes to work under conditions imposed by an LCP written by another company that does not know their equipment and practices. This has been repeated to me by Apply-A-Line and I have come to assume that automatically since we use them so often. The quote we received from GENI gave a price for their LCP and that is the amount we listed in our DVBE paperwork which was delivered after the 24-hour submission of the Subcontractor List form. We did not remove work from GENI, we only intended to use them for the EMCL LCP at the outset but were prepared to pay the full price for their LCP.

With respect to the addition of bid item number 3 to column 2, note that bid item 3 is for Traffic Control (TC). It is standard industry practice for striping subcontractors to provide their own TC. If you look at Apply A. Line's bid, you will see that they include the cost of TC in their striping numbers and don't even bother with breaking it out as a separate bid item. This is the way AAL always presents their striping bids and I am accustomed to listing them as our striping sub. It was only upon review of Central Striping's bid that I noticed they had broken out their traffic control number as a separate bid item. I chose to complete column 2 for them by adding bid item 3 to show that they were performing their own traffic control.

I've attached a copy of the completed Subcontractor List form for Northwest Paving on this same job. They chose not to list bid item 3 in column 2 for AAL despite the fact that traffic control is included in AAL's price for the striping and reflector work. This is more evidence that it is common practice that the striping subcontractor provides its own traffic control and that traffic control is considered an accessory task to striping application. I am sure examples just like this can be found throughout past, successfully-awarded jobs.

Lead Compliance Plans and Traffic Control are tasks that are accessory to the work of removing/applying striping and removing/applying recessed reflectors. It is standard industry practice in Districts 1 and 2 for both of these tasks to be performed by the striping subcontractor. That is why we felt that adding bid items 1 and 3 to column 2 was merely "completing" the information already provided and not an expansion of the scope of work already assigned to Central Striping.

### Conclusion

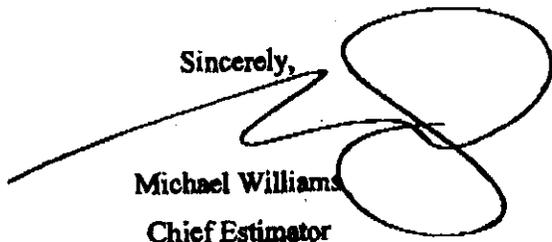
Timberworks' actions in filling out column 2 of the Subcontractor List form may have been non-standard but they did not violate any rules known to Timberworks. We did not expand the work assigned to Central Striping nor did we remove work from any other listed subcontractors.

**TIMBERWORKS**

Timberworks took action as clearly called out in the Standard Specifications and in the Subcontractor List form instructions.

As we stated in our previous letter, we would like the opportunity to present these arguments at a hearing, assuming Caltrans maintains its determination of a non-responsive bid. I hope that the additional information provided with this letter persuades Caltrans to allow us to perform this contract.

Sincerely,

  
Michael Williams  
Chief Estimator  
Timberworks

- encl: Full copy of bid from Central Striping for 01-0C1304  
Full copy of bid from Apply A Line for 01-0C1304  
Full copy of bid from GENI for 01-0C1304  
Full copy of Subcontractor List form from Northwest Paving for 01-0C1304

**\*\* Transmit Conf. Report \*\***

P.1  
CALTRANS CONTR AWARDS Fax 916-227-6282

May 22 2013 05:02pm

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EDMUND G. BROWN Jr., Governor



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May 22, 2013

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01-OC1304  
01-Hum, Men-271-0.0/T0.2, 6.1/22.7  
B.O. 03/27/2013

Dear Mr. Knight:

The Department of Transportation (Caltrans) received the attached letter submitted by Shasta Services, Inc., dba Timberworks (Timberworks) dated May 3, 2013, protesting a nonresponsive bid finding for Contract 01-OC1304.

Timberworks alleges that they did not add a new scope of work in column 2, and adding bid item numbers to complete column 2 is not an improper change to the Subcontractor List form.

Caltrans has reviewed the bid documents, and upholds its original finding that the inclusion of bid items 1 and 3 on the 24 hour Subcontractor listing did constitute an improper change to the Subcontractors listing and therefore, rendered the bid nonresponsive.

Based on the above finding, Timberworks is not eligible for award of this contract and Caltrans will proceed to award this contract to the lowest responsible bidder, provided that all requirements are met.

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