

**FD. THOMAS, INC.**

May 21, 2015

VIA FACSIMILE (916) 227-6282

John C. McMillan
Deputy Division Chief
Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Re: Protest of Process of Award to Certified Coatings
Contract No. 03-3F3404
Construction On State Highway In Sacramento Near Isleton At Three Mile Slough Bridge
In District 03 On Route 160
03-Sac-160-L7.0
Project ID 0312000219
Federal-Aid Project ACBHNH-P160 (024) E

Dear Mr. McMillan:

F.D. Thomas, Inc. is protesting the bid of Certified Coatings submitted for Contract 03-3F3404. Based on the Cal Tans Post bid Paperwork site, the receipt of the DBE Commitment form on 4/28/2015 from Certified Coatings was well beyond the time frame required by section 2-1.33 of the Revised Standard Specification (no later than 4 p.m. on the 4th business day after bid opening). "Failure to submit the forms and information as specified may result in a nonresponsive bid." Additionally, accepting the DBE Commitment form six weeks beyond the due date, necessarily gives a significant advantage to Certified Coatings that was not available to the four bidders who submitted the DBE documents within the four days required by the specification. The failure of Certified Coatings to submit their DBE documentation in the prescribed timeframe should render its bid non-responsive.

As well Certified Coatings has committed to 0.88% DBE participation. Five of the six bidders have shown that they have exceeded the contract goal of 4%. Per Revised Standard Specification Date 01-23-15, Section 2-12B (3), "The Department considers DBE commitments of other bidders in determining whether the low bidder made good faith efforts to meet the DBE goal." Evaluated against the other bidders, the Department should reject the good faith efforts of Certified Coatings as being insufficient and subsequently, the bid submitted should be deemed non-responsive.

Finally on May 15th, 2015, the Department of Transportation notified FD Thomas, Inc. of its determination of non-responsiveness. In doing so, Caltrans has begun to process the award to the "lowest responsible bidder", which appears to be Certified Coatings Company and FD Thomas, respectfully protests the processing of award to Certified as FD Thomas has submitted an explanation per the request of Cal Trans which may determine FDT as the lowest responsible bidder. We believe this process needs to be finalized prior to award to Certified Coatings.

Respectfully,


Grover Lee
F.D. Thomas VP/Division Manager
P: 541.864.1602
F: 541-664-1105



F.D. THOMAS, INC.

217 Bateman Drive Central Point, OR 97502
PO Box 4663 Medford, OR 97501
(541)664-3010 FAX (541)664-1105

Fax

**To: Caltrans – Division of
Engineering Services**

From: F.D. Thomas

Fax: 916-227-6282

pages: 2 including cover sheet

Phone:

Date: 5/21/2015

Re: Contract #03-3F3404

CC:

Email:

Attn: Mr. John C. McMillan

Urgent **For Review** **Please Comment** **Please Reply**

Please find attached protest of Award of Contract to Certified Coatings

Respectfully,

Grover Lee