



May 20, 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

Mulissa Smith  
Contract Awards Branch Chief  
Department of Transportation  
Division of Engineering Services  
Office Engineer, MS 43  
1727 30th Street  
P.O. Box 168041  
Sacramento, CA 95816-8041

**Re: Rejection of F.D. Thomas, Inc.'s Bid As Nonresponsive  
Contract # 03-3F3404,  
Construction On State Highway In Sacramento County  
Near Isleton At Three Mile Slough Bridge**

Dear Mr. McMillan and Ms. Smith:

F.D. Thomas, Inc. (FDT) has received Caltrans' letter of May 15, 2015, in which Caltrans concluded that FDT's bid is nonresponsive and requested that FDT contact Ms. Smith with any questions. It is clear to FDT that its bid is responsive, and that Caltrans' incorrect conclusion stems from a misunderstanding of the information contained in FDT's bid. Accordingly, FDT submits this letter to clear up any confusion, so that armed with a correct understanding of FDT's bid, Caltrans can determine that FDT's bid is responsive.

In Caltrans' letter of May 15, 2015, Caltrans stated that FDT's bid was nonresponsive because it did not comply with the Subcontractor Listing requirement of Revised Caltrans Standard Specifications section 2-1.10. Section 2-1.10 states:

On the Subcontractor List form, 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 § 4100 et seq.).

Caltrans concluded that FDT did not comply with the Subcontractor Listing requirement for the following reason:

On the DBE Commitment Form, FD Thomas identified S.T. Rhoades Construction (S.T. Rhoades) as performing Bid Items 5 and 12, (Traffic Control System, Temporary Railing (Type K)) but failed to list S.T. Rhoades on the Subcontractor List form. Based on the description of work, S.T. Rhoades is performing subcontracted work, and this work falls within the subcontractor listing requirement and therefore, should have been listed on the Subcontractors List form.



Caltrans' incorrect conclusion that FDT's bid is nonresponsive stems from an apparent misunderstanding of (1) what subcontractors must be included in the Subcontractor Listing, and (2) the nature of the work that S.T. Rhoades Construction (S.T. Rhoades) is performing.

**FDT Is Only Required To List First-Tier Subcontractors Whose Subcontracts Exceed The Applicable Threshold**

As Caltrans correctly noted in its letter, California Public Contract Code section 4100 *et seq.* addresses the Subcontractor Listing law. For example, the "1/2 of 1%" requirement to list "subcontractors" in Revised Caltrans Standard Specifications section 2-1.10 derives from Public Contract Code section 4104. Another statute in the same portion of the Public Contract Code defines the term "subcontractor" for purposes of the Subcontractor Listing law. Section 4113 provides:

As used in this chapter, the word "subcontractor" shall mean a contractor, within the meaning of the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, who contracts directly with the prime contractor.

"Prime contractor" shall mean the contractor who contracts directly with the awarding authority.

Therefore, in order to qualify as a "subcontractor" that has to be listed, the entity must (a) be a "contractor" within the meaning of the applicable section of the California Business and Professions Code, and (b) contract directly with the prime contractor (*i.e.*, be a first-tier subcontractor).

The portion of the Business and Professions Code cited in Public Contract Code section 4113 addresses licensing of contractors by the Contractors State License Board (CSLB). The applicable section is section 7026. This section has a lengthy definition of "contractor," which includes the following:

any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks . . . .

The definition of "contractor" above does not include equipment suppliers who are merely furnishing equipment to a project site. This is because equipment suppliers do not "construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement." This is borne out by the fact that equipment suppliers are not required to be licensed by the CSLB. The same is true of entities that prepare paper plans in connection with the project.

**F.D. THOMAS, INC.**

For this project, S.T. Rhoades is contracting directly with FDT as an equipment supplier that will be furnishing an attenuator truck, K-Rail and a message sign. (See Exhibit 1 for subcontractor and supplier relationships on the project). S.T. Rhoades will not provide any labor associated with these items. S.T. Rhoades will also prepare directly for FDT a traffic control plan. Preparation of the traffic control plan is an in-office, paper exercise that would not involve any labor on the project, such as traffic control.

What may have caused confusion is that two of FDT's first-tier subcontractors, Bentancourt Bros. Construction, Inc. (Bentancourt) and Peterson Industrial Scaffolding (Peterson), are using S.T. Rhoades as a second-tier subcontractor to perform traffic control. FDT agrees that for purposes of traffic control, S.T. Rhoades is a subcontractor. **However, because the Subcontractor Listing law and Revised Caltrans Standard Specifications section 2-1.10 only require the listing of first-tier subcontractors, FDT was not required to list S.T. Rhoades.**

So to summarize, FDT was not required to list S.T. Rhoades for the attenuator truck, K-Rail, or message sign rental, or preparation of the traffic control plan (*i.e.*, its work directly for FDT), because for purposes of that work, S.T. Rhoades is not a "subcontractor." Moreover, FDT was not required to include S.T. Rhoades on its Subcontractor Listing for the traffic control work for Bentancourt and Peterson, because while S.T. Rhoades is a subcontractor for that work, it is a second-tier subcontractor, and the Subcontractor Listing law and Revised Caltrans Standard Specifications section 2-1.10 only require the listing of first-tier subcontractors.

### **The Bidding Documents Clearly Indicate That S.T. Rhoades Is Not Acting As A First-Tier Subcontractor To FDT**

The bidding documents submitted by FDT clearly show that S.T. Rhoades was not a first-tier subcontractor to FDT. As an initial matter, it is important for Caltrans to understand that the S.T. Rhoades quotation is a menu of pricing for FDT to pick from, regarding the various services and equipment that S.T. Rhoades performs. The menu provided by S.T. Rhoades is a standardized form that S.T. Rhoades provides to all of its prospective customers. Only the items that are marked on the form are items that the customer is contracting for with S.T. Rhoades, just as when you go into a restaurant, your order is only the specific items you contract for, not every item on the menu.

With that background in mind, please consider the following. First, Exhibit 2 is the S.T. Rhoades menu that contains items contracted for by FDT. For bid item 5, you should note that while FDT is contracting for the "Attenuator truck," the line below it for "optional driver" is not selected. This demonstrates that the "Attenuator truck" item is for equipment rental only, and does not include labor. For bid item 12, because S.T. Rhoades charges for each delivery of K-Rail, FDT contracted with S.T. Rhoades to deliver all the K-Rail at once, to minimize delivery cost. FDT is to install and remove the K-Rail for pickup by S.T. Rhoades. Thus, the K-Rail item is for equipment only, no labor.

Second, Exhibit 3 is FDT's DBE Commitment form. This form has already been reviewed and approved by Caltrans Civil Rights. The DBE commitment form contains information regarding subcontractors of whatever tier, so it includes information on subcontractors that would not be required to be listed on FDT's Subcontractor Listing. The annotations on Exhibit 3 contain a detailed explanation of why the items on the DBE Commitment form do not have to be included on the Subcontractor Listing.



Third, Exhibit 4 is a copy of Bentancourt's quote, which shows that Bentancourt contracted to use S.T. Rhoades to perform traffic control for its work. This proves that S.T. Rhoades is to do traffic control work as a second-tier subcontractor, not a first-tier subcontractor, and therefore S.T. Rhoades was not required to be listed on FDT's Subcontractor Listing for this work.

Finally, Exhibit 5 is a copy of Peterson's quote, which shows that Peterson contracted to use S.T. Rhoades to perform traffic control for its work. This proves that S.T. Rhoades is to do traffic control work as a second-tier subcontractor, not a first-tier subcontractor, and therefore S.T. Rhoades was not required to be listed on FDT's Subcontractor Listing for this work.

In light of the above information, FDT requests that Caltrans determine that FDT's bid is responsive. If you have any questions, I may be reached at (541) 664-3010. Please let me know of Caltrans' decision on this issue no later than May 26, 2015.

Respectfully,

Grover Lee  
Vice President/Division Manager  
NACE Certified Coating Inspector Level 3 - No. 26037  
F.D. Thomas, Inc.  
541-664-3010 - Office

# F.D. Thomas Subcontractor and Supplier Relationships

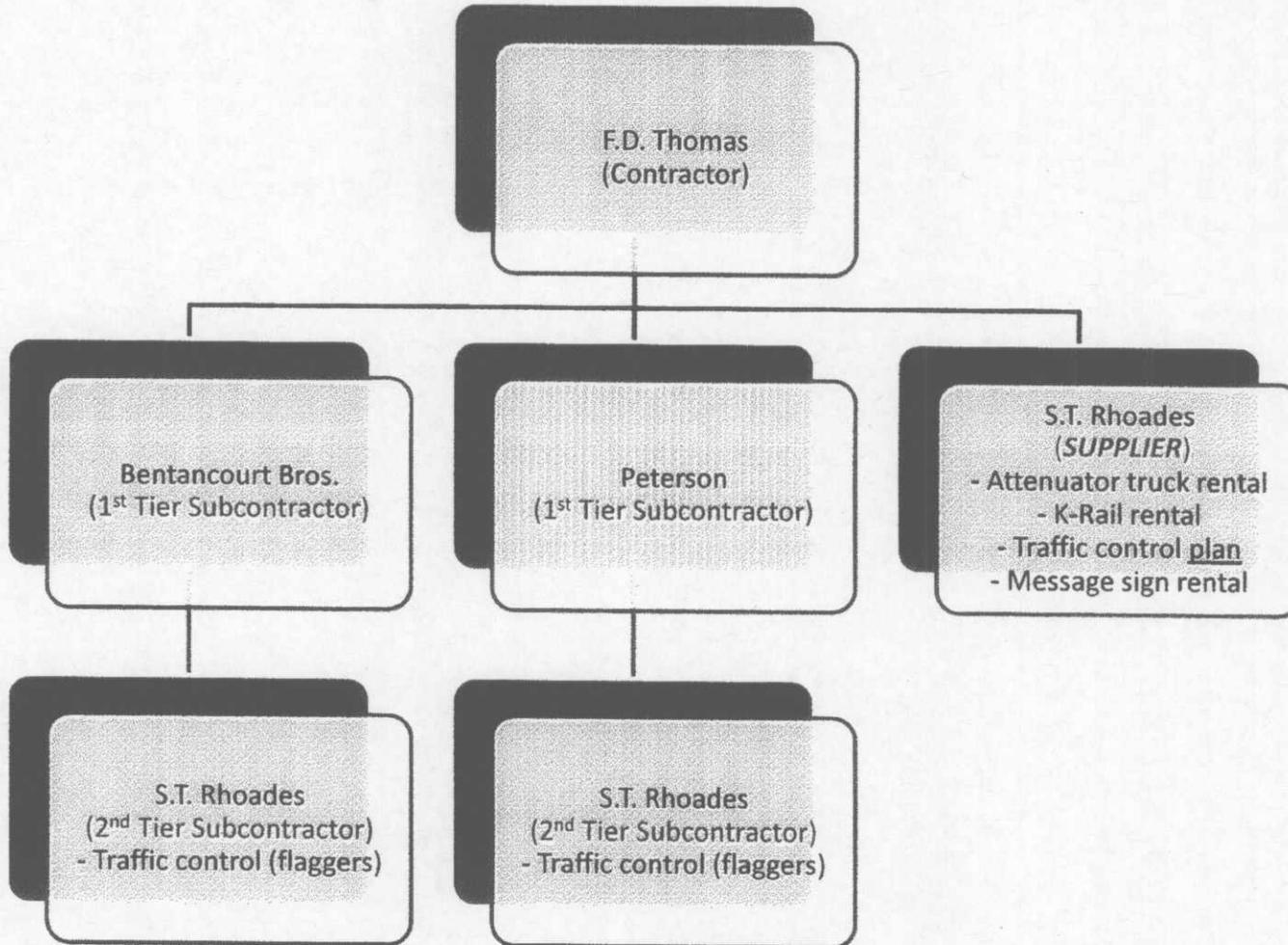


Exhibit 1

Rhoades direct work for FDT

# S.T.RHOADES CONSTRUCTION INC.

8585 COMMERCIAL WAY REDDING, CA 96002  
P.O. BOX 494520, REDDING, CA., 96049  
530-223-9322, FAX 530-223-9222 License # 930684  
MBE/SBE- 1247344,U/DBE-37693, UNIONS-OPERATORS, LABORERS



DIR # 1000008025

To: GENERAL CONTRACTORS

Attn: ESTIMATORS

Project CT 03-3F3404

Date: 3/17/15

PER PHONE CONV w/ Rhoades Est - \$50<sup>00</sup> in our krait delivered/removed

Bid  
ITEM  
5

Item	Description	QTY	UM	Price
A	1 Man 1 Lane 1 Mile day or night	1	shift	\$ 895.00
B	Additional lane same direction	1	ea	\$ 135.00
C	Additional lane opposite direction	1	ea	\$ 175.00
D	Additional mileage	1	ea	\$ 85.00
E	Ramp closure with lane closure minor detour	1	ea	\$ 75.00
F	Ramp closure w.o lane closure minor detour	1	ea	\$ 925.00
G	1 man lane closure overtime rate	1	hr	\$ 80.00
H	Additional man	1	shift	\$ 525.00
I	Pilot car	1	shift	\$ 725.00
J	2 flaggers 8 hr shift, signs, cones	1	shift	\$ 1,175.00
J.1	2 flaggers 8 hr shift, signs, cones, rumble strips	1	shift	\$ 1,425.00
K	2 flaggers overtime rate	1	hr	\$ 170.00
K.1	2 flaggers overtime rate w/rumble strips	1	hr	\$ 200.00
L	2 flaggers 8 hr night/special shift	1	shift	\$ 1,300.00
L.1	2 flaggers 8 hr night/special shift w/rumble strips	1	shift	\$ 1,500.00
M	2 flaggers overtime night/special shift	1	hr	\$ 180.00
M.1	2 flaggers overtime night/special shift w/rumble strips	1	hr	\$ 200.00
N*	Attenuator truck	1	shift	\$ 350.00
	Attenuator truck	1	wk	\$ 1,200.00
	Attenuator truck	1	month	\$ 3,500.00
	optional driver	1	shift	\$ 525.00
O*	Portable changeable message sign	1	day	\$ 200.00
		1	week	\$ 450.00
		1	month	\$ 900.00
P*	Portable radar trailer	1	day	\$ 175.00
		1	week	\$ 375.00
		1	month	\$ 750.00
Q	Shoulder closure			
R*	High dump sweeper unoperated			
*	High dump sweeper operated			
*	Based on availability at time of project start			
S	Pilot car overtime			
T	Traffic control plans			

See attached

X 92 SHIFTS  
32,200  
TOTAL

Note  
"optional driver is not selected, which shows this item is only for truck

Notes:

- Proposal valid for 30 days, Allow 10 days for scheduling
- 1 shift - up to and minimum of 8hrs, up to 1 mile
- Subsistence to be added as needed per union rates
- Sunday rates available upon request
- We also provide erosion, water pollution programs, storm water plans
- Multiple move ins and outs may require additional charges
- Mobilization of Message Boards @ \$400.00/each
- Prices good through 2015. Add 6% for 2016 if needed.
- Price includes furnishing and installation unless otherwise noted.
- Bonds
- Permits
- Mobilization, call for rates

this is menu type pricing where we can pick and choose what items and at what rate will be utilized for the bid. Example: Items J, J1, K and K1 cover different options for the same work. The attenuator truck has different options for rental as well as options for labor to drive it...FDT has chosen to rent and supply our own labor from this quote (92 shifts X \$350 = \$32,200 as listed on DBE form. Please note the only selections that FDT used from this page were the message board rental and the attenuator truck rental (both delivered only)

Respectively Submitted,

Exc

100/100

Mar 17 2015 12:03pm

S T Rhoades Const Inc Fax:530-223-9222

Exhibit 2, p.1

FDT Justification  
for use of own  
forces Union Labor  
Rate Breakdown

 <b>FD Thomas, Inc.</b> # - Job Name				
Union Used Court	1	1	2	2
Lookup code used by 6.7	CASac-P16-J-REG	CASac-P16-J-OT	CANORTH-L38E	CANORTH-L38E
Lookup code-Labor Master	CASac-P16-J	CASac-P16-J	CANORTH-L38E	CANORTH-L38E
Craft Code	J	J	J	J
Regular or Overtime (OT)	REG	OT	REG	OT
Craft Description	Painter Journeyman	Painter Journeyman	Laborer Journeyman	Laborer Journeyman
Union Code	CASac-P16	CASac-P16	CANORTH-L	CANORTH-L
Rate Component	Straight-time Rate	Overtime Rate	Straight-time Rate	Overtime Rate
Gross Pay-Labor Master	\$ 31.35	\$ 15.68	\$ 27.14	\$ 13.57
Gross Pay-Adjustments	\$ -	\$ -	\$ -	\$ -
Gross Hourly Pay	\$ 31.35	\$ 15.68	\$ 27.14	\$ 13.57
Worker's Comp	\$ 1.50	\$ -	\$ 2.59	\$ -
State Unemplmnt	\$ 1.94	\$ 0.97	\$ 1.68	\$ 0.84
Fed Unemplmnt	\$ 0.19	\$ 0.09	\$ 0.16	\$ 0.08
Fed Social Security	\$ 0.19	\$ 0.09	\$ 0.16	\$ 0.08
Union Fringes	\$ 17.46	\$ -	\$ 20.20	\$ -
Subtotal	\$ 52.63	\$ 16.83	\$ 51.93	\$ 14.57
Less: OCP Adjustment	\$ -	\$ -	\$ -	\$ -
Subtotal	\$ 52.63	\$ 16.83	\$ 51.93	\$ 14.57
Add regular rate to OT Premium	\$ -	\$ 52.63	\$ -	\$ 51.93
Subtotal Before Markups	\$ 52.63	\$ 69.46	\$ 51.93	\$ 66.50

← Laborer

N*	Description	Quantity	Unit	Rate
	Attenuator truck	1	shift	\$ 350.00
	Attenuator truck	1	wk	\$ 1,200.00
	Attenuator truck	1	month	\$ 3,500.00
	optional driver	1	shift	\$ 525.00

X 92 shifts  
32,200  
TOTAL

S.T. Rhoades will be providing delivery, rental and pickup of the attenuator truck only. The truck rent is as listed on S.T. Rhoades quote: \$ 350 per shift for 92 shifts totaling \$32,200 as listed. FDT chose not to use the optional driver pricing item from S.T. Rhoades due to the cost. S.T. Rhoades driver is \$525 per 8 hour shift, that breaks down to \$65.63 per hour. FDT as a union contractor can utilize our own trained Laborer at approx \$51.93 per hour. This represents a 21% cost savings versus using Rhoades, this represents the best economic outcome for FDT and for Cal Trans and is why FDT has chosen to do this work with its own forces.

# S.T.RHOADES CONSTRUCTION INC.

8585 COMMERCIAL WAY REDDING, CA 96002  
P.O. BOX 494520, REDDING, CA., 96049  
530-223-9322, FAX 530-223-9222 License # 930684  
MBE/SBE- 1247344, U/DBE-37693, UNIONS-OPERATORS, LABORERS



DIR # 1000008025

To: GENERAL CONTRACTORS

Attn: ESTIMATORS

Project CT 03-3F3404

Date: 3/17/15

PER PHONE CONV w/ Rhoades Est - \$ 50<sup>00</sup> in our krait delivered/removed

Bid Item 11

Item	Description	QTY	UM	Price
A	1 Man 1 Lane 1 Mile day or night	1	shift	\$ 895.00
B	Additional lane same direction	1	ea	\$ 135.00
C	Additional lane opposite direction	1	ea	\$ 175.00
D	Additional mileage	1	ea	\$ 85.00
E	Ramp closure with lane closure minor detour	1	ea	\$ 75.00
F	Ramp closure w.o lane closure minor detour	1	ea	\$ 925.00
G	1 man lane closure overtime rate	1	hr	\$ 80.00
H	Additional man	1	shift	\$ 525.00
I	Pilot car	1	shift	\$ 725.00
J	2 flaggers 8 hr shift, signs, cones	1	shift	\$ 1,175.00
J.1	2 flaggers 8 hr shift, signs, cones, rumble strips	1	shift	\$ 1,425.00
K	2 flaggers overtime rate	1	hr	\$ 170.00
K.1	2 flaggers overtime rate w/rumble strips	1	hr	\$ 200.00
L	2 flaggers 8 hr night/special shift	1	shift	\$ 1,300.00
L.1	2 flaggers 8 hr night/special shift w/rumble strips	1	shift	\$ 1,500.00
M	2 flaggers overtime night/special shift	1	hr	\$ 180.00
M.1	2 flaggers overtime night/special shift w/rumble strips	1	hr	\$ 200.00
N*	Attenuator truck	1	shift	\$ 350.00
	Attenuator truck	1	wk	\$ 1,200.00
	Attenuator truck	1	month	\$ 3,600.00
	optional driver	1	shift	\$ 525.00
O*	Portable changeable message sign	1	day	\$ 200.00
		1	week	\$ 450.00
		1	month	\$ 900.00
P*	Portable radar trailer	1	day	\$ 175.00
		1	week	\$ 375.00
		1	month	\$ 750.00
Q	Shoulder closure	1	shift	\$ 825.00
R*	High dump sweeper unoperated	1	day	\$ 360.00
*	High dump sweeper operated	1	hr	\$ 140.00
	Based on availability at time of project start			
S	Pilot car overtime	1	hr	\$ 90.00
T	Traffic control plans	1	ea	\$ 750.00

See attached

X2 = 170

900 x 2 x 10 months = 18,000

- X 2 = 1500

- Notes:
- Proposal valid for 30 days, Allow 10 days for scheduling
  - 1 shift - up to and minimum of 8hrs, up to 1 mile
  - Subsistence to be added as needed per union rates
  - Sunday rates available upon request
  - We also provide erosion, water pollution programs, storm water plans, and BMP placement.
  - Multiple move ins and outs may require additional charges
  - Mobilization of Message Boards @ \$400.00/each - X 2 = 800 x 2 for Demobe = 1,600
  - Prices good through 2015. Add 6% for 2016 if needed.
  - Price includes furnishing and installation unless otherwise noted.
  - Bonds
  - Permits
  - Mobilization, call for rates

Inc. Exc

TOTAL

21,270

Respectively Submitted,

P001/001

Mar 17 2015 12:03pm

ST Rhoades Const Inc Fax: 530-223-9222

Exhibit 2, p. 3

# S.T. RHOADES CONSTRUCTION INC.

8585 COMMERCIAL WAY, REDDING, CA 96002

P.O. BOX 494520, REDDING, CA., 96049

530-223-9322, Fax 530-223-9222, License # 930684

MBE/SBE- 1247344,U/DBE-37693, UNIONS-OPERATORS, LABORERS



## PROPOSAL

To: GENERAL CONTRACTORS

Attn: ESTIMATORS

Project: 03-3F3404

Bid date:

*Bid ITEM 12*

Date: 3/17/15

Item	Description	Quantity	UM	Unit Price	Amount
12	Temporary railing type K	480	lf	\$ 50.00	\$ 24,000.00
Total:					\$ 24,000.00

- otes:
- Proposal valid for 30 days, Allow 10 days for scheduling
  - All monies and retentions to be released after acceptance by owner irregardless of contract clauses or project duration within 30 days of completed work.

- cludes:
- Price includes furnishing and installation unless otherwise noted.
  - One mobilization additional mobilizations \$ 3,500 each.

- cludes
- Bonds
  - Permits
  - Fees
  - Striping
  - Staking
  - Engineering
  - Referencing
  - Repair or replace asphalt damaged by others
  - Permanent or temporary traffic control markers
  - Temporary or permanent water pollution control
  - Traffic control
  - Costs associated with waivers of subrogation

Respectively Submitted,  
**Steve Rhoades**  
President

# S.T. RHOADES CONSTRUCTION INC.

8585 COMMERCIAL WAY, REDDING, CA 96002

P.O. BOX 494520, REDDING, CA., 96049

530-223-9322, Fax 530-223-9222, License # 930684

MBE/SBE- 1247344, U/DBE-37693, UNIONS-OPERATORS, LABORERS



## PROPOSAL

To: GENERAL CONTRACTORS

Attn: ESTIMATORS

Project: 03-3F3404

Bid date:

*Bid ITEM 12*

Date: 3/17/15

Item	Description	Quantity	UM	Unit Price	Amount
12	Temporary railing type K	480	lf	\$ 50.00	\$ 24,000.00
Total:					\$ 24,000.00

otes:

- Proposal valid for 30 days, Allow 10 days for scheduling
- All monies and retentions to be released after acceptance by owner **irregardless of contract** clauses or project duration within 30 days of completed work.

cludes:

- Price includes furnishing and installation unless otherwise noted.
- One mobilization additional mobilizations \$ 3,500 each.

Based on discussions of the mobilizations and timeframes on the project, FDT has chosen to place the Krail with its own forces for only getting charged for 1 mobilization as noted in this quote. It will be delivered and removed from site for the pricing listed. Moving rails for the different stages is part of the reasoning FDT will perform this work.

cludes

- Bonds
- Permits
- Fees
- Striping
- Staking
- Engineering
- Referencing
- Repair or replace ~~asphalt damaged by others~~
- Permanent or temporary traffic control markers
- Temporary or permanent water pollution control
- Traffic control
- Costs associated with waivers of subrogation

Respectively Submitted,  
**Steve Rhoades**  
 President

S.T. Rhoades will deliver and pick up the K Rail to the site including one mobilization to deliver to the site. FDT to install and remove Krail for pick up by Rhoades. This is the understanding that was discussed just prior to bid time

*BZ* **BRIAN ZARR** CHIEF ESTIMATOR

# S.T. RHOADES CONSTRUCTION INC.

8585 COMMERCIAL WAY REDDING, CA 96002

P.O. BOX 494520, REDDING, CA. 96049

530-223-9322, FAX 530-223-9222 License # 930684

MBE/SBE- 1247344, U/DBE-37693, UNIONS-OPERATORS, LABORERS



DIR # 1000008025

Noted here, \$50 in and out K

To: GENERAL CONTRACTORS

Rail, Delivered and Removed

Date: 3/17/15

Attn: ESTIMATORS

Project CT 03-3F3404

*PER PHONE CALL w/ Rhoades Est. \$ 50 in out Krail delivered/removed*

Item	Description	QTY	UM	Price
A	1 Man 1 Lane 1 Mile day or night	1	shift	\$ 895.00
B	Additional lane same direction	1	ea	\$ 135.00
C	Additional lane opposite direction	1	ea	\$ 175.00
D	Additional mileage	1	ea	\$ 85.00

*SEE ATTACHED*

# Third Bidder

FDT DBE Commitment form

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**DBE - COMMITMENT**  
 DES-CE-0102100 (REV 12/2014)

03-23-15P01:22 RCVD

CONTRACT NO. 03-3F3404

BID AMOUNT: \$ 8,984,000

BID OPENING DATE March 17th, 2015

BIDDER'S NAME F.D. Thomas, Inc.

DBE GOAL FROM CONTRACT % 4%

DBE PRIME CONTRACTOR CERTIFICATION<sup>1</sup> N/A

TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE)

TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE)

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	WORK CATEGORY CODES <sup>3</sup>	NAME OF DBE: (Must be certified on the date bids are opened. Include Caltrans' certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors)	AMOUNT (\$)
22	Fuel purchase and delivery	C0624	First Fuel 14 Bolivar St. Newport Beach CA 92663 DBE# 36185	97,015.20
18	Biologist and Species Protection	C8792	Gallaway Enterprises, Inc. 117 Myers St, Suite 120 Chico CA 95982 DBE# 31237	82,000.00
19		C8792		2,000.00
15	WPCP and Storm water Management	C8852	Tully Consulting Group 180 S. First St, Suite 9 Dixon CA 95620 DBE# 38300	10,083.36
32	Up front WPCP costs	C8852		10,041.24
11	Message Board Rental	C1200	S.T. Rhoades Construction 8585 Commercial Way Redding Ca 96002	21,270.00

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq).

<sup>1</sup>Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

<sup>2</sup>If 100% of an item is not to be performed or furnished by the DBE describe the exact portion of the item to be performed or furnished.

<sup>3</sup>Use Work Category Codes from the California Unified Certification Program database.

DBE# 37693 \$ see next page for totals

Total Claimed Participation %

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (49 CFR 26.53).

Signature of Bidder



3/20/15  
Date

541.664.3010  
(Area Code) Tel No.

Mike Kostenko or Daniel Lewis  
Person to Contact (Please Type or Print)

**1.a**  
All of the DBE listings in this section are services, suppliers or rentals as listed and shown on this form and do not need to be listed on the Subcontractor listing form. Items are figured to be delivered to FDT office in Sacramento or to the project site.

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 446-1233, 111711 or write to Records and Forms Management, 1120 H Street, MS-89, Sacramento, CA 95814.

03-23-15PC1:22 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**DBE - COMMITMENT**  
DES-0E-0102 10D (REV 12/2014)

CONTRACT NO. 03-3F3404

BID AMOUNT: \$ 8,984,000

BID OPENING DATE: March 17th, 2015

BIDDER'S NAME: F.D. Thomas, Inc.

DBE GOAL FROM CONTRACT %: 4%

DBE PRIME CONTRACTOR CERTIFICATION<sup>1</sup>: N/A

TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE): 4

TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE): 1,328,871.38

**1. Krail**  
Per the Rhoades Quote and FDT notes, this pricing includes rental and delivery and pick up at the site. FDT has chosen to place the rail with its own forces (cost less)

**2. Attenuator**  
Per the Rhoades Quote and FDT Notes this Attenuator pricing is a rental only including delivery and pickup to the site, note from the quote the cost of a driver is listed as \$525 per day as a separate cost which is NOT included in the DBE pricing and is not used for this project. FDT will use its own labor forces for the driving of the attenuator truck.....this is a rental item only and stated as such in the DBE form

**3. Plans**  
Per the Rhoades quotation a traffic control plan is a cost of \$750 to design. FDT has included the service of Rhoades to build a traffic control plan for each of the 4 phases (\$750 X 4 = \$3000) this is a service that is completed off site and does not require labor on site and is not a subcontractor listed item, please see calculation on the Rhoades quotation.

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	WORK CATEGORY CODES <sup>3</sup>	NAME OF DBEs (Must be certified on the date bids are opened include Caltrans' certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors)	AMOUNT (\$)
12	K Rail Rental	C8331	S.T. Rhoades Construction 8585 Commercial Way Redding CA 96049 DBE# 37693	24,000.00
5	Attenuator Truck rental	C9670	S.T. Rhoades Construction 8585 Commercial Way Redding CA 96049 DBE# 37693	32,200.00
5	Traffic control plans	C8850	DBE# 37693	3,000.00
10	Traffic Control Bentancourt Bros Construction	C1201	S.T. Rhoades Construction 8585 Commercial Way Redding CA 96049 DBE# 37693	37,875.00
22	Traffic Control Peterson Industrial Scaffolding	C1201	DBE# 37693	53,025.00

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

Total Claimed Participation: \$ 372,509.56

4.15 %

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq)

<sup>1</sup>Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

<sup>2</sup>If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.

<sup>3</sup>Use Work Category Codes from the California Unified Certification Program database.

<sup>5</sup> Per the request listed on the DBE form FDT is consistent with listing 1st tier subcontractors on the Subcontractor list. FDT is not required to list 2nd tier subcontractors, services, rentals, or suppliers on the Subcontractor list form.

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (48 CFR 26.53).

Signature of Bidder  
3/20/15  
Date  
Mike Kostenko  
Person to Contact

**4. 2nd Tier Sub Listed on DBE**  
The requirement of the DBE form is to list 2nd tier subs per the note on the form. FDT has listed per the requirements, Rhoades as a second tier sub to both Bentancourt Bros and Peterson Scaffolding. As a second tier sub there is no requirement to list on the subcontractor listing form. Please see attached quotations from Bentancourt and Peterson acknowledging their 2nd tiered use of Rhoades.

Note: Please see the Rhoades quote that provides a menu of pricing of which FDT has selected specific Items only and as discussed with Rhoades. Also attached is 1st tier quotes from Peterson and Bentancourt that list the use of Rhoades as a 2nd tier subcontractor.

# Quote Bentancourt Bros. Construction Inc.

5933 North front Rd., Livermore, CA, 94551

925.454.1521, 925.454.1523 fax

Bid Date 3-17-15 Bid Time 2:00

Contract #03-3F3404

CSL# 854851

Bentancourt quote showing use of Rhoades as second-tier subcontractor

Item #	Description	Unit	Unit Qty	Unit Price	Total
5	TRAFFIC CONTROL	DAYS	25	\$ 1,515.00	\$ 37,875.00
10	TEMPORARY SIGNAL SYSTEM	LS	1	\$ 225,000.00	\$ 225,000.00
31	BUILDING WORK (PLANS PARTIAL, ELECTRICAL ONLY)	LS	1	\$ 35,000.00	\$ 35,000.00
<b>Item Total</b>					<b>\$ 297,875.00</b>

- 1) As per plans and specifications, exceptions noted below.
- 2) Bonds will not be supplied.
- 3) Insurance: No "waiver of subrogation" supplied on workmen compensation or liability. Limits of liability \$2,000,000.00, general aggregate. Limits of workmen compensation \$1,000,000.00.
- 4) Addendum received: 1, 2
- 5) Exclusions:
  - A) All removal and or disposal, excavation and or backfill of hazardous or contaminated materials
  - B) Staking, each foundation location requires one offset stake with finish grade marked.
  - C) Chain link fence or any other protection needed around controller or generators
  - D) Any k-rail, crash cushions, or other protection needed or required around wood poles or other electrical equipment
  - E) All access inside, outside, and all over Bridge Structure

S.T. Rhoades is a second tier subcontractor, under the control of Bentancourt Bros. Construction for Bid Item 10.

6) Retention due 30 days after completion of electrical work

7) Bentancourt is providing traffic control for it's portion of work only, utilizing S.T. Rhoades Construction Inc. DBE 37693  
\* \$37,875

- 8) All minor maintenance of the temporary system by contractor, I.E. lamps & lenses replacement. All materials by Bentancourt Construction.
- 9) Prime Contractor to provide access on the Bridge for Cable Installation
- 10) One move in to install temporary system, one move in to remove temporary system. Extra work for all relocation of temporary equipment.

**CALIFORNIA DIR REGISTRATION #1000006504**  
**CALIFORNIA SMALL BUSINESS CERTIFIED REF#0041681**

Exhibit 4

Peterson quote showing use of Rhoades as second-tier subcontractor



CA - License 970819

Date 3/17/2015

F.D Thomas Inc

Attn: Daniel Lewis

Ref: R.F.Q Three Mile Slough Bridge - Quote# 160035

Peterson Industrial Scaffolding is please to summit our quote for the above referenced project. Our experience in the industry will help assure a safe and productive job.

SCOPE OF WORK AND PRICING

ITEM# WORK DESCRIPTION

TOTAL COST

DAILY RENTAL After 28 Days

Main SCOPE OF WORK

ITEM#	WORK DESCRIPTION	TOTAL COST	DAILY RENTAL After 28 Days
Scaffold Underneath Bridge	Install and dismantle one 43' wide by 2 sections of 280' long each hanging scaffold underneath of the bridge beams, scaffold will have 2 ladder access	\$140,489.88	\$1.50 per liner feet
Underneath Lift Span	Install and dismantle one 43' wide 176' long hanging scaffold underneath of the lift span	\$43,514.56	\$1.50 per liner feet
Side Scaffold Structure	Install and dismantle one 3 planks wide by 4 sections of 280' long by 30' tall scaffold with 3 Working decks on the outside the overhead structure on each side of the bridge	\$123,530.01	\$1.48 per liner feet
Side scaffold Lift Area	Install and dismantle one 3 plank wide by 2 sections of 175' long by 30' tall scaffold with 3 working decks on the outside the overhead structure on each side of the bridge	\$38,261.51	\$1.48 per liner feet
Tower 1	Install and dismantle one 3 planks wide around 18' wide by 35' long by 119' Hight with 18 working decks, scaffold includes one system stair tower to access each of the decks	\$80,244.09	\$437.61
Tower 2	Install and dismantle one 3 planks wide around 18' wide by 35' long by 119' Hight with 18 working decks, scaffold includes one system stair tower to access each of the decks	\$80,064.09	\$437.61
<b>TOTALS FOR THE SCAFFOLD</b>		<b>\$506,104.15</b>	

Rolling scaffold	Install and dismantle one 10' wide rolling by 30' long by 16' tall scaffold to access underneath of the overhead structure above the bridge deck, the scaffold will have 3 knee out (I will recommend 2 Rolling scaffolds FD Thomas will have 60' scaffold with 10' space = 70' long of working area)	\$3,864.00	\$27.00
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ATTACHMENT 4 (1/2)

\* Use Return Scaffold

2nd tier DBL RHOADES  
Martinez, California 94553  
4961-A Pacheco Blvd  
Phone: 925-969-9015  
Fax: (925) 969-9097

FDT Notes acknowledging Rhoades as a second tier to Peterson

PHONE: (541) 864-1601  
FAX:  
CELL:  
E-MAIL: daniel.lewis@fdthomas.com

Handwritten notes at the top right of the page.

Price includes 28 Days Rental and State Taxes. Daily Rental after 28 Days will be at (see Above Rates) the 28 days will be starting at the completion of the installation

Shrink Wrap Alternate

Underneath ridge	Install 12 mill Shrink Wrap on the scaffold underneath of the bridge approx, 44288sq ft,	\$57,131.52
Tower 1	Install 12 mill Shrink Wrap around the scaffold Containing 20 foot vertical Lights approx, 3660sq ft each lifts, total of 6 Lifts,	\$37,112.40
Tower 2	Install 12 mill Shrink Wrap around the scaffold Containing 20 foot vertical Lights approx, 3660sq ft each lifts, total of 6 Lifts,	\$37,112.40
Tower 3	Move Rolling scaffold and install approx. 5,125 sq feet of shrink wrap on a 22' wide by 20' Heigh Area, above the Roadway	\$6,611.25

S.T. Rhoades is a second tier subcontractor, under the direction of Peterson Industrial Scaffold for their work as it pertains to Bid Item 22.

*Handwritten notes:*  
Rhodes DBE #37693  
35 days traffic \$1575

Traffic Control

Traffic Control	Peterson Industrial Scaffolding will be using S.T Rhoades (DBE #37693) for traffic Control for 35 Days during the installation and removal of the scaffold, cost includes 5% Mark-Up	\$53,025.00
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Pricing to complete the above mentioned project includes materials, labor and equipment. No overtime is included. Our terms are net 30. Will be invoiced on all invoices over 28 days.

Inclusions

- Perdiem
- Prevailing Wage
- Travel
- Freight
- Rental per Above schedule
- Engineering

EXCLUSIONS

- Forklifts -
- Shoring

CLARIFICATIONS

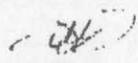
1. Work to be performed on eight (8) hours days, Monday thru Friday 7:00 to 3:30. (no holidays, Unless noted otherwise in schedule
2. Pricing does not include any scaffold inspections or maintenance after setup of scaffold
3. Any Changes or delays will be billed at our standard Time & Material Rates.
4. Lump Sum Terms: 70% upon erection, 30% up dismantle, invoice net. 30 days. Time and Material will be billed weekly. Invoice net 30 days.
5. Price is valid for 90 Days.
6. Insurance certificate available upon award of contract.
7. The Equipment is, and shall at all times be and remain, the sole and exclusive property of Peterson Industrial Scaffolding, The Lessee shall have no right, title or interest therein thereto except as expressly set forth in the proposal
8. Damage and/or shortages of materials are subject to our warehouse counts. Material must be return clean from debris
9. Peterson Industrial Scaffolding. Does not hereby assume responsibility and indemnify the General Contractor and/or owner for their sole negligence. In the event of concurrent negligence, Peterson Industrial Scaffolding indemnity will apply only to the extent of our fault or negligence.
10. Peterson Industrial Scaffolding will provide a waiver of lien rights for it subcontractors and suppliers; however we cannot waive lien rights as a result of non-payment by the General Contractor and/or owner.
11. All work level should be free of tools and debris prior to dismantle. If Peterson is required to clean and remove tools and debris there will be additional cost at the time and material rates.
12. Scaffolding erected by Peterson Scaffolding may only be altered by Peterson Scaffolding. Any modifications by others will negate the indemnity that is extended in this agreement and Peterson Scaffolding will NOT be held liable for any damages or injuries suffered. The Prime Contractor and/or General Contractor will be fully responsible for any and all claims, judgments, settlements and legal fees arising from scaffolding alterations made by anyone other than Peterson Scaffolding.
13. The Proposal is an instrument which constitutes the entire agreement between the parties on the subject matter hereof and it shall not be amended, altered or change except by further writing signed by the parties hereto.
14. This Agreement shall be governed and construed in accordance with the laws of the state of California
15. Most of the scaffolding on this project will be build for light duty work.

- 16. All scaffolding will be build in accordance with State & Federal OSHA guidelines. Any additional modification will be charged as additional work.
- 17. All scaffolds must be inspect by the Prime Contractor and/or Owner, the Safety Manager and our Scaffold Manager before the scaffold will be release for used.
- 18. Once the scaffolding has been released to the Prime Contractor and/or General Contractor it is their responsibility to inspect the scaffolding daily as required by law.
- 19. Customer need to have a credit approval before we can start any scaffold work
- 20. Our prices are based on having a good clear access to the job site.
- 21. If there is any site training at the facility will be done on Time and Material
- 22. General Contractor will provide a forklift to unlead and load up scaffold material
- 23. Our price includes 2 mobilization (1 for the installation and 1 for the removal) any additional mob, will be bill as a time and material

Should you have any questions or require any additional information do not hesitate to contact me at 925-405-2660. Peterson Scaffolding appreciates the opportunity to serve your Scaffolds needs.

Sincerely

Customer Approval

  
Miguel Ayala

Area Manager  
Cell 925-405-2660  
Peterson Industrial Scaffolding  
[miguel.ayala@Petersonscaffolding.com](mailto:miguel.ayala@Petersonscaffolding.com)  
[www.Petersonscaffolding.com](http://www.Petersonscaffolding.com)

\_\_\_\_\_  
Signature of Approval  
on our Clarifications and Exclusions



**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: 17 including cover sheet**

**Phone:**

**Date: 5/20/2015**

**Re: Contract # 03-3F3404**

**CC:**

**Email:**

**Attn: Mr. John C McMillan**

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

Please find review attached.

Respectfully,

Grover Lee  
Vice President/Division Manager  
NACE Certified Coating Inspector Level 3 – No. 26037  
F.D. Thomas, Inc  
541-664-3010