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OUR FILE NUMBER:

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12996047.1

April 20, 2015

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

Re: Peterson-Chase General Engineering, Inc./Response to Bid Protest Letter
Project: CONTRACT 05-1C9404, Bid Date: 4/2/15, Construction on State Highway
in Monterey County at Various Locations from San Ardo Undercrossing to Alisal
Road Undercrossing

Dear Mr. McMillan:

This firm represents Peterson-Chase General Engineering Construction, Inc.

We have reviewed the bid documents and protest letter submitted by F.D. Thomas ("Thomas") dated April 10, 2015. The protest has no merit. To be responsive, a bid must be in accordance with the material terms of the bidding instructions. *Taylor Bus Serv., Inc. v. San Diego Bd. Of Educ.*, (1997) 195 Cal.App.3d 1331. Here, Peterson-Chase's bid is in accordance with the material terms of the bidding instructions. The bid documents provide "The Contractor must have either a Class A license or one of the following Class C Licenses: C - 8." (See Notice to Bidders; page 1; Contract No. 05-1C9304, enclosed herewith). Peterson-Chase has an A license so its bid is responsive. Indeed, the C-31 license, referenced by Thomas, is not even called out in the bidding instructions.

Further, the scope of work for this Project can be performed by an A license. Business and Professions Code section 7056 provides: "A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: . . . highways streets and roads, tunnels . . . bridges, overpasses, underpasses and other similar works . . . paving and surfacing work and cement and concrete works in connection with the above-mentioned fixed works."

In conclusion, Thomas's protest letter has no merit; Peterson-Chase is duly licensed and its bid is responsive to the material terms of the bidding instructions. We trust that the bid protest will be

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rejected forthwith. However, if there are any questions or if you need any additional authority or information, please do not hesitate to contact me.

Please call us if you have questions or wish to discuss.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Anthony P. Niccoli

APN:mmw

cc: Peterson-Chase

NOTICE TO BIDDERS

Bids open Wednesday, March 25, 2015

Dated February 23, 2015

General work description: Seal bridge decks with methacrylate or polyester.

The Department will receive sealed bids for CONSTRUCTION ON STATE HIGHWAY IN MONTEREY COUNTY AT VARIOUS LOCATIONS FROM SAN ARDO UNDERCROSSING TO ALISAL ROAD UNDERCROSSING.

District-County-Route-Post Mile: 05-Mon-101-R21.9/87.0

Contract No. 05-1C9304

The Contractor must have either a Class A license or one of the following Class C licenses: C-8.

The DVBE Contract goal is 5 percent.

Bids must be on a unit price basis.

Complete the work within 150 working days.

The estimated cost of the project is \$900,000.

No prebid meeting is scheduled for this project.

The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. Bids received after this time will not be accepted. For more information refer to the Electronic Bidding Guide at the Bidder's Exchange web site.

The Department will open and publicly read the bids at 1727 30th Street, Bidders' Exchange, MS 26, Sacramento, CA 95816 immediately after the specified closing time.

District office addresses are provided in the *Standard Specifications*.

Present bidders' inquiries to the Department and view the Department's responses at:

http://www.dot.ca.gov/hq/esc/oa/inquiry/bid_inquiries.php

Questions about alleged patent ambiguity of the plans, specifications, or estimate must be asked before bid opening. After bid opening, the Department does not consider these questions as bid protests.

Submit your bid with bidder's security equal to at least 10 percent of the bid.

Under Govt Code § 14835 et seq. and 2 CA Code of Regs § 1898 et seq., the Department gives preference to certified small businesses and non-small businesses who commit to 25 percent certified small business participation.

Under Pub Cont Code § 8107, the Department gives preference to a "California company," as defined, for bid comparison purposes over a nonresident contractor from any state that gives or requires a preference to be given to contractors from that state on its public entity construction contracts.

Prevailing wages are required on this Contract. The Director of the California Department of Industrial Relations determines the general prevailing wage rates. Obtain the wage rates at the DIR Web site, <http://www.dir.ca.gov>, or from the Department's Labor Compliance Office of the district in which the work is located.

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Contract No. 05-1C9304



PETERSON-CHASE

GENERAL ENGINEERING CONSTRUCTION, INC
1792 KAISER AVE., IRVINE, CA 92614
PH# (949) 252-0441 FAX#: (949) 252-0266

TO: State of California Department of Transportation

FROM: Dick W. Vogels

DATE: April 20, 2015

EMAIL:

SUBJECT: Response to Protest of Bid Submitted
by F.D. Thomas, Contract 05-1C9404,
Bid Opening Date 4/2/15

ATTN: OFFICE ENGINEER

JOB#: **CONTRACT#:** 05-1C9404

PH#: **FAX#:** 227-6282

PH#: (949) 252-0441 **FAX#:** (949) 252-0266

Peterson Chase hereby responds to the Protest Letter from F.D. Thomas (Thomas) for Contract 05-1C9404 as follows:

- Peterson Chase is a General Engineering Contractor with a valid California "A" license
- A "C-31 license" is not necessary for a contractor with an "A" license to perform traffic control.
- The contract Special Provisions "Notice to Bidders" page 1 specifically states "Contractor must have either Class A or..C-8" license. Peterson Chase complies with this requirement.
- Please review our attorney's letter dated 4/20/15, confirming that a contractor with an "A" license can perform traffic control on their own contracts.

Accordingly, the Thomas bid protest has no merit, and this contract should be awarded to Peterson Chase.

Please call if questions arise.

Sincerely,

Dick Vogels
Vice President