

**—WESTERN DIVISION—**

39 California Street, PMB 118
Valley Springs, CA. 95252
209-747-3595 Phone
209-263-3595 Fax

May 9, 2013

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P.O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-8300
FAX (916) 227-6282

ATTN: Mr. John C. McMillan
Deputy Division Chief

Subject: 01-491214 LAKE COUNTY NEAR LOWER LAKE FROM COYOTE CREEK BRIDGE TO 1.2 MILES
SOUTH OF ROUTE 53

Re: FORMAL PROTEST OF BIDS SUBMITTED BY WINSOR FUEL COMPANY AND SYNERGY PROJECT
MANAGEMENT, INC.

Dear Mr. McMillan,

Please consider this letter to be a formal protest of the bid submitted by Windsor Fuel Company (Windsor), and a formal protest of the bid submitted by Synergy Project Management, Inc. (Synergy) in connection with Contract No. 01-491214. Chester Bros Construction is presently the Third Lowest bidder on the subject project. The bids turned in by Windsor and Synergy are nonresponsive and therefore must be rejected based on the Department's bidding requirements and strictly-enforced policies.

The bid submitted by Windsor is non-responsive as set forth: The Certified DVBE Summary form states in part... "Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code 4100 et seq.) submitted with the bid." The governing specifications Section 2-1.15B, the last sentence, states clearly in the last sentence "List each 1st-tier DVBE subcontractor in the Subcontractor List form regardless of percentage of the total bid." Windsor on its bid day, also final, Subcontractor Listing submittal, lists only Linear Options of Menlo Park, CA. for assorted items of work, no other subcontractor is listed. Windsor then submitted its Certified DVBE Summary which included Wells Sweeping for work construction operations, more specifically, Street Sweeping, associated with bid items 9,10,12, and 14 for a dollar amount of \$14,500.00 also, Mike Arther & Son is listed for construction

1511

operations, more specifically Water Truck Services, associated with bid items 9 and 14 for a dollar amount of \$10,440.00. The total dollar amount for these combined services is \$24,940.00 that Windsor has incorrectly claimed as DVBE credit. In keeping with the specifications governing the Certified DVBE Summary, Windsor cannot claim DVBE credit for the two afore mentioned contractors as again, Section 2-1.15B, states very clearly that the bidding contractor must... "List each 1st-tier DVBE subcontractor in the Subcontractor List form regardless of percentage of the total bid." As such, the Total Claimed DVBE Participation dollar amount on the Windsor Certified DVBE Summary of \$58,550.00 must be reduced by \$24,940.00 to account for the incorrectly listed subcontractors listed above. This reveals a correct and accurate Total Claimed DVBE Participation dollar amount for Windsor of \$33,610.00.

Additionally, Section 2-1.15B also states very clearly that the bidding contractor must "Meet the goal shown on the Notice to Bidders."

When calculating the correct Total Claimed DVBE Participation percentage utilizing the actual applicable dollar total of \$33,610.00, the true DVBE percentage achieved by Windsor is 2.60%. This actual and corrected DVBE participation percentage is less than the goal necessary for award of this project. These facts are clear, correct and undisputable.

In violation of the express requirements of the bid documents, Windsor added subcontractors to its Certified DVBE Summary in an effort to achieve the necessary minimum DVBE participation percentage. This leads to the second violation of the express requirements of the bid documents. When correct dollar amounts are utilized to calculate the actual DVBE participation percentage for the bid submitted by Windsor, the actual DVBE participation percentage is 2.6% which is lower than the required DVBE participation percentage. Based on these facts and substantiated by Caltrans past precedence, Caltrans should find Windsor's bid nonresponsive and award the contract to the lowest responsive bidder Chester Cross Construction.

The bid submitted by Synergy is non-responsive as set forth: The Subcontractor List form states in part... "Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." ***No other revisions to the form are permitted.***

In violation of this express requirement of the bid documents, Synergy revised its Subcontractor List form by adding subcontracted work that was not listed on their submitted bid form. Chrisp Company from Woodland, California was originally listed by Synergy to perform Striping & related partial. Synergy then submitted the completed 24 hour Subcontractor listing with definite changes to the original document as submitted with the bid. More specifically, Synergy added Bid Item # 1 Lead Compliance Plan and Bid Item # 3 Traffic Control System for Chrisp Company on the 24 hour subcontractor list submittal. Bid items 1 and 3 were not referenced, described or listed on Synergy's original submittal, and bid items 1 and 3 are not considered striping or related work. Based on this fact and substantiated by Caltrans past precedence, Caltrans should find Synergy's bid nonresponsive and award the contract to the lowest responsive bidder, Chester Cross Construction.

An additional or secondary point could be made with regards to Synergy's bid, that the original subcontractor list submittal by Synergy clearly defined the entire scope of work for Chrisp Company as being (partial) when in fact upon review of the Synergy 24 hour subcontractor list submittal, bid items 7, 8, 19, 20, 24, and 25 are shown to be 100% Chrisp items of work. This change from originally listed (partial) performance in column 4 to 100% item performance on numerous bid items is a direct conflict and change from the Original Synergy submittal. As such, based on this additional fact, Caltrans should again, find Synergy's bid nonresponsive and award the contract to the lowest responsive bidder, Chester Cross Construction.

As a third point in Synergy's violation of the express requirements of the bid documents, Synergy added bid item 7 and 8 to the 24 hour subcontractor list submittal. Bid item 7 is "REMOVE THERMOPLASTIC TRAFFIC

STRIPE" and bid item 8 is "REMOVE THERMOPLASTIC PAVEMENT MARKING". Again, the Description of Subcontracted Work for Chrisp Company under Column 4 on the original submittal was clear and specific, "Striping and related partial". Bid Items 7 and 8 were not referenced, described or listed on Synergy's original submittal, and bid items 7 and 8 are not considered striping work. Based additionally on these facts, Caltrans should find Synergy's bid nonresponsive and award the contract to the lowest responsive bidder, Chester Bross Construction.

Caltrans has been consistent in its requirement that all subcontractors listed on the Certified DVBE Summary must have been listed in the Subcontractor List form regardless of percentage of the total bid to be considered applicable towards the DVBE goal. Caltrans has also been consistent in its requirement and subsequent enforcement of the requirement to meet the DVBE goal. Further, Caltrans has been consistent in its requirement that bid item work listed under Column 2 must fall under the category and/or be a component of work listed under column 4. Additional bid items or scopes of work cannot be added on the revised bid list, or subsequent 24 hour submittal. Any such deviations as evident on the synergy submittals specific to this project have and will lead Caltrans to find a bid to be nonresponsive.

Caltrans has consistently found bidders to be nonresponsive for some exact and several similar errors and or revisions made by both Windsor and Synergy in the bids submitted by them on this project. Caltrans Contracts 10-0A8404, 10-0A8724, 04-3A23U4 and 04-153204 are a few examples of similar determinations (please see attached), with several additional contracts presently being reviews by the department for errors and revisions of a similar nature. The Department owes a duty to enforce its bid requirements in a fair and uniform manner consistent with set precedence, and in keeping with the governing Subletting and Subcontracting Fair Practices Act of the Public Contract Code. Accordingly, because both Windsor and Synergy have violated the Department and governing bid requirements for reasons set forth herein, the Department must reject the Windsor and Synergy bids as nonresponsive.

Based on the facts presented herein, it is respectfully and formally requested that the Department uphold and validate Chester Bross Construction's bid protest and award the contract to our company, which submitted the lowest responsive and responsible bid for Contract No. 01-491214.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Very truly yours,



Shawn N. Simmons
Western Division Manager

Via FedEx to the address above
Via Facsimile to (916) 227-6282

—CORPORATE OFFICE—

6739 CR 423
Palmyra, MO 63461
P.O. Box 430
Hannibal, MO 63401
573-221-5958 (phone)
573-221-1892 (fax)
Website: www.cbrossgroup.com



Please consider the environment before printing this quotation.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DES-OE-0102.2 (REV 3/2011)

Bidder Name: Windsor Fuel Co.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Conf Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
LINEAR OPTIONS MEMLO PARK, CA	1	100	LEAD COMPLIANCE PLAN
	3	11.3	TRAFFIC Control (Partial)
	7	100	Remove Thermo stripe
	8	100	Remove Thermo Marking
	15	100	Centerline Pumble stripe
	16	100	Shoulder Pumble Strip
	19	100	Thermo Pavement Marking
	20	100	4" Thermo Traffic stripe
	21	100	4" Thermo Traffic stripe Broken 12-3
	22	100	4" Thermo Traffic stripe Broken 36-12
	23	100	8" Thermo traffic stripe
	24	100	Pavement Marker (Retri)
	25	100	Pavement Marker (Retri Recessed)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 664-6410 or TDD (916) 664-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

DHX

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CERTIFIED DVBE SUMMARY
DES-OE-0102.5 (REV 3/2008)

Low Bidder

DISTRICT-COUNTY-ROUTE: 01 - Lake - 29

CONTRACT NO.: 01-491214

TOTAL BID: \$ 1,292,099.00

04-19-13P01:40 R000

BID OPENING DATE: APRIL 17, 2013

BIDDER'S NAME: Windsor Fuel Company

DVBE PRIME CONTRACTOR CERTIFICATION *

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE ¹	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
19-23	Supply Trench material to lot		James Goto 1-800-530-985-9257 CERT #07	\$21,450.00
406	WRCP - PCMS		Global Environmental 800-230-6944 CERT# 29765	\$12,160.00
9,10,12,14	STREET SWEEPING		Wells Sweeping 916-568-0104 CERT# 0000323	\$14,500.00
9,14	WATER TREAT SERVICES		MIKE ARMSTRONG 530-668-6692 CERT# 46844	\$10,440.00
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.				Total Claimed Participation <u>\$ 57,550.00</u> <u>4.531 %</u>

1. DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are certified with 100 percent DVBE participation and need not complete the above table).

2. If 100% of an item is not performed or supplied by the DVBE, describe the exact part, including the planned location of work to be performed, or item to be performed or supplied by DVBE.

Submit to:

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 30TH STREET
SACRAMENTO, CA 95816-7005

M. A. Armstrong
Signature of Bidder DW:

925-427-5266
(Area Code) Telephone Number

Marc Armstrong
Contact Person (Type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-8410 or TDD (916) 664-3880 or write Records and Forms Management, 1720 N Street, MS-09, Sacramento, CA 95814.

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-OE-0102.2 (REV 3/2011)

Synergy Project Management
150 Executive Park Blvd. #200
San Francisco, CA 94134
Bidder Name: Ph: 415-467-3000, Fax: 415-467-3001

The bidder must identify each subcontractor performing 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.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
DVBE TRK Campbell, CA			TRUCKING & RELATED PARTIAL (AC, GRIND)
CHRISP COMPANY WOODLAND, CA			STRIPING & RELATED PARTIAL
APADANA ENGINEERING SAN FRANCISCO, CA			AC PAVING ONLY RELATED & PARTIAL
ABSX CO. SACRAMENTO, CA			Grinding PARTIAL & RELATED

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-09, Sacramento, CA 95814.

MH

Received

Apr 18 2013 01:35pm

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-DE-0102.2 (REV 8/2011)

Synergy Project Management
150 Executive Park Blvd. #200
San Francisco, CA 94134
Bidder Name: PH415-467-3000 Fax 415-467-3001

The bidder must identify each subcontractor performing 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.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
DNBE Trucking Campbell, CA	9	9%	Partial Trucking and Related (AC and Grind)
	12	10%	
	14	4%	
Absl Construction Sacramento, CA	9	67%	Grinding (Partial) and related
	14	37%	
Chrisp Company Woodland, CA	01	75%	Striping : Related (partial)
	03	17%	
	07	100%	
	08	100%	
	19	100%	
	20	100%	
	21	30%	
	22	75%	
	23	44%	
	24	100%	
25	100%		

ADA Notice: For individuals with sensory disabilities, this document is available in alternate format. For information call (916) 654-6610 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-49, Sacramento, CA 95814.

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~~STATE OF CALIFORNIA - BUSINESS TRANSPORTATION AND PUBLIC SAFETY AGENCY~~

~~REPUBLIC OF CALIFORNIA~~

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 144001
SACRAMENTO, CA 95816-0001
PHONE (916) 227-6228
FAX (916) 227-6282
TTY 711



*Please your papers
to energy efficient*

January 17, 2012

Facsimile: (925) 687-2122

Benjamin L. Rodriguez Jr., President
Bay Cities Paving and Grading, Inc.
P.O. Box 6227
Concord, CA 94520

10-0A8404
10-Sac, SJ, Sol-5, 12-Vax
B.O. 12/7/11

Dear Mr. Rodriguez:

The Department received the attached revised "Subcontractor List" on December 7, 2011, for Contract No. 10-0A8404 from Bay Cities Paving and Grading, Inc. (Bay Cities). In the revised list Bay Cities included bid items 20, 24, 26, 34, 35, 37, 38, 68 - 71, 74, 75, 89, and 90 to conform 2 for Forest of Lodi which does not match up with the description in column 4. This letter is to inform you that the Department cannot accept the revised "Subcontractor List" as it would violate the Subcontracting and Subcontracting Fair Practices Act of the Public Contract Code. The subcontractor list originally submitted by Bay Cities with its bid on December 7, 2011 will be used.

The Subcontractor List form states in part, "Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6222 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." No other revisions to the form are permitted. Bay Cities added bid item numbers listed in column 2 which don't match up with the description in column 4 for Forest of Lodi.

Based on the above, the Department finds your bid is nonresponsive. The Department will proceed to award the contract to the lowest responsible bidder provided all requirements are met.

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

Sincerely,


JOHN C. MCMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

c: Desilva Outex Construction
P.O. Box 2909
Dublin, CA 94568
Fax (925) 803-4263

B of 11
SFR

~~STATE OF CALIFORNIA - FEDERAL TRANSPORTATION AND INFRASTRUCTURE AGENCY~~

~~STATE OF CALIFORNIA - FEDERAL TRANSPORTATION AND INFRASTRUCTURE AGENCY~~

**DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES**

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 18891

SACRAMENTO, CA 95816-0891

PHONE (916) 227-6280

FAX (916) 427-6282

TTY 711



Please print
the energy efficient

June 5, 2012

Facsimile: (209) 523-4977

Ed Barber, Vice President
George Reed, Inc.
P. O. Box 4760
Modesto, CA 95352

10-0A8724
10-Sta-219,10B-3.4/7.9,44.3/44.9
B.O. 5/1/12

Dear Mr. Barber:

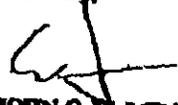
George Reed, Inc. (George Reed) submitted a bid on contract 10-0A8724 on May 1, 2012. By this letter, the California Department of Transportation (Caltrans) notifies George Reed that its bid is unresponsive because it listed Farwest Safety, Inc. to perform bid item 24 (Temporary Crash Cushion Moduls) and bid item 56 (Remove Crash Cushion Moduls) on its 24 hour subcontractor list submitted.

George Reed's original submittal lists Farwest Safety, Inc. to do sign work. Bid items 24 and 56 are not considered sign work.

Based on the above, Caltrans finds your bid is unresponsive and will award the contract to the lowest responsible bidder.

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

Sincerely,


JOHN C. McMULLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

c: Bay Cities Paving & Grading, Inc.
P. O. Box 6227
Concord, CA 94524-1227
Fax: (925) 687-2122

90511

~~STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION AND PUBLIC SAFETY~~

~~MEMORANDUM FOR THE ENGINEER~~

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 180041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6200
FAX (916) 227-6262
TTY 711



*Plan your project
Be more efficient*

August 23, 2012

Facsimile: (510) 526-0990

Greg Souder, Secretary
O.C. Jones and Sons, Inc.
1520 Fourth Street
Berkeley, CA 94710

04-3A23U4
04-Sun-101-25.6/29.2
B.O. 8/8/12

Dear Mr. Souder:

O.C. Jones and Sons, Inc. (O.C. Jones) submitted a bid for contract 04-3A23U4 on August 8, 2012. By this letter, the Department of Transportation (Caltrans) notifies O.C. Jones that its bid is nonresponsive because it failed to properly submit the Subcontractor List.

The Subcontractor List form states in part, "...Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." No other revisions to the form are permitted.

Since Myers and Sons were originally subcontracted to perform Bridge Structures, but bid item 127 Structural Concrete Retaining Wall and bid item 128 Structural Concrete Sound Wall were added on the revised bid list received on August 9, 2012, Caltrans finds your bid is nonresponsive. Caltrans will proceed to award the contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.02 of the Amendments to the 2006 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to offer to extend your bid while resolving a nonresponsive finding you must send your request to the Office Engineer no later than 4:00 pm two business days prior to the expiration of your bid.

~~STATE OF CALIFORNIA - HIGHWAY TRANSPORTATION AND INFRASTRUCTURE~~

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, RM 43
1717 30th STREET
P. O. BOX 188841
SACRAMENTO, CA 95816-8841
PHONE (916) 227-6282
FAX (916) 227-6282
TTY 711



*Please your papers
be properly addressed!*

November 2, 2012

Facsimile: (408) 365-9548

Rodney Jenay, Vice President
Pavex Construction Division
120 Granite Rock Way
San Jose, CA 95136

04-153204
04-AJA, SCI-680-0.0/0.1,
0.1/9.9
B.O. 10/2/12

Dear Mr. Jenay:

Pavex Construction Division (Pavex Construction) submitted a bid for contract 04-153204 on October 2, 2012. By this letter, the Department of Transportation (Caltrans) notifies Pavex Construction that its bid is nonresponsive because it failed to properly submit the Subcontractor List.

The Subcontractor List form states in part, "...Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." No other revisions to the form are permitted.

Since Statewide Traffic Safety Signs was originally subcontracted to perform Construction Area Signs, but roadway signs were added to the revised bid list received on October 3, 2012, Caltrans finds your bid is nonresponsive. Caltrans will proceed to award the contract to the lowest responsive bidder provided all requirements are met.

Your attention is directed to Section 3-1.02 of the Amendments to the 2006 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to offer to extend your bid while resolving a non-responsive finding you must send your request to the Office Engineer no later than 4:00 pm two business days prior to the expiration of your bid.

If you have any questions, please contact David Newman, Contract Awards Senior, at (916) 227-6285.

Sincerely,

John C. McMillan
JOHN C. McMILLAN

Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment

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[Handwritten initials]

Fax

JOHAI McMILLAN
OFFICE ENG, MS 43

To: CALTRANS, DIV. OF ENG, SUP. From: SHARAI SIMMONS
CHESTER BLOSS CONST

Fax: 916 227-6282 Pages: 12 including cover

Phone: 916 227-8300 Date: 5/9/13

Re: 01-491214 CC:
BID PROTEST

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:

★ BID PROTEST.

ORIGINAL SENT VIA
FEDEX TRACKING NBR.

8023 0479 8143

