October 20, 2016

Jill Sewell, Office Chief
Office Engineer, Construction Contract Awards
Division of Engineering Services
California Dept. of Transportation
P.O. Box 168041, MS-43
Sacramento, CA 95816-8041

Facsimile: (916) 227-6282

Re: Caltrans Contract 05-0T9904
Bid Protest

Dear Jill Sewell:

On October 13, 2016, Caltrans opened bids for contract call out 05-0T9904. Professional Tree Service (PTS) was the apparent low bidder. However, PTS appears to have three (3) bid errors that make John Madonna Construction the lowest responsible bidder based on Caltrans Standard Specifications 2010, 2-1.33C Subcontractor List.

The First error - The percentages for listed DBE subcontractors on the "Subcontractor List" form does not match the dollar amounts listed on the "DBE – Commitment". **(Exhibit 1)** The instructions on the "Subcontractor List form reads as follows:

> *Enter Bid Item Number. (Item)*
> *Enter percent of Bid Item Subcontracted. (%).*
> *If the percentage of the bid item work is less than 100 percent list the description of the portion of the work to be subcontracted.*
> *Enter the description of the percentage of work to be performed by subcontractor. (Description).*

(Exhibit 2), Table 1 indicates the bid amount, percentages, and DBE subcontractors per bid item PTS listed on the "Subcontractor List" form. As noted in the instructions stated above, notice the percentages PTS is listing each subcontractor for each bid item. In accordance with the "Subcontractors List" form and the listed percentages by PTS, (Exhibit 2), Table 2 indicates the allowable dollar amounts that should have been listed on the "DBE – Commitment" form. These dollar amounts don't match and are incorrect.

The Second error, due to the percentages shown on the "Subcontractor List" form, it is impossible for PTS to have met the DBE goal of 10%. Since PTS did not perform a "Good Faith Effort", it is a requirement that they meet the DBE Goal. Upon adding the correct allowable dollar amounts shown in Table 1, this totals $10,150. This is the total PTS can claim on the "DBE –Commitment" form. This equates to only 1.2%. PTS's commitment is far below the required DBE goal of 10%.

(Exhibit 3) The Third error, the supplied quotes and the amounts listed on the "DBE – Commitment" form doesn't match. Table 3 (Exhibit 2) indicates the quoted dollar amounts and the listed DBE credit. These quoted dollar amounts are then confirmed on the "DBE Confirmation" forms (Exhibit 3). PTS listed these DBE subcontractors for the actual bid item amount, and not what was actually quoted. This again, makes their "DBE – Commitment" incorrect.

For the reasons stated, it is clear that PTS had made mistakes in their bid is non-responsive.

Thank you,

John Madonna

Moving Dirt for 30 Years

Oct. 20. 2016 9:54AM JOHN MADONNA CONSTRUCTION No. 0614 P. 4

Exhibit 1

Expedite Bid - 05-1C0104.685 (2 Amendments) 05-1C1104

File Edit Tools View Help

- 23Aug
  - Bid Item List
  - Bid to the Department of Transportati
  - SubContractor List
  - Additional SubContractor List 1
  - Additional SubContractor List 2
  - Additional SubContractor List 3
  - Opt out of payment adjustments for p
  - Small Business Status
  - Disclosure of Lobbying Activities Certi
  - Certifications
  - Bid Bond Data

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DIS-08-0102.2C (REV 03/2015)

Enter Bid Item Number. (Item)

Enter percent of Bid Item subcontracted. (%)

If the percentage of the bid item work is less than 100 percent list the description of the portion of the work to be subcontracted.

Enter the description of the percentage of work to be performed by subcontractor. (Description)

DO NOT USE SEMICOLONS (;) IN YOUR INPUT.

Sample Data Entry:

Item	%	Description
6	75	striping
42	15	reinforcement
54	100	

List this subcontractor? Yes *REQUIRED

1) Business Name: XRC Safety Co. Inc.

Location City: Fresno | State: CA

California Contractor License Number: 307930

Public Works Contractor Registration Number: 1000004790

Portion of Work Subcontracted:

Exhibit 2

Table 1

Bid Item	Bid Item Total	DBE Subcontractor Listed Percentage	DBE Subcontactor Name
1	1,600.00	1%	Adanta, Inc.
2	3,300.00	1%	Associated Traffic Safety
4	4,000.00	1%	Associated Traffic Safety
6	1,000.00	1%	Appian
21	169,000.00	4%	Dominguez & Sons Trucking, Inc.
22	54,007.50	4%	Dominguez & Sons Trucking, Inc.
36	1,620.00	1%	Associated Traffic Safety
37	360.00	1%	Associated Traffic Safety
38	420.00	1%	Associated Traffic Safety

Table 2

Bid Item	Bid Item Total	DBE Subcontractor Listed Percentage	Allowable DBE Credit ($)	Listed DBE Credit ($)
1	1,600.00	1%	1,600 x 1% = 160	1,600
2	3,300.00	1%	3,300 x 1% = 330	3,300
4	4,000.00	1%	4,000 x 1% = 400	4,000
6	1,000.00	1%	1,000 x 1% = 100	1,000
21	169,000.00	4%	169,000 x 4% = 6,760	54,000
22	54,007.50	4%	54,007 x 4% = 2,160	25,000
36	1,620.00	1%	1,620 x 1% = 162	1,620
37	360.00	1%	360 x 1% = 36	360
38	420.00	1%	420 x 1% = 42	420

Table 3

Bid Item	DBE Subcontractor Listed Amount ($)	DBE Subcontractor Quoted Amount ($)	DBE Subcontactor Name
1	1,600	1,300	Adanta, Inc.
2	3,300	2,750	Associated Traffic Safety
4	4,000	3,000	Associated Traffic Safety
6	1,000	750	Applan
36	1,620	1,350	Associated Traffic Safety
37	360	255	Associated Traffic Safety
38	420	300	Associated Traffic Safety

Exhibit 3

Following Low Bidder Package

10-19-16A11:46 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE - COMMITMENT
DES-OE-0102.10D (REV 12/2014)

CONTRACT NO: 05-0T9904

BID AMOUNT: $ $ 848,532.30

BID OPENING DATE: 10/13/2016

BIDDER'S NAME: The Professional Tree Care Co.

DBE GOAL FROM CONTRACT %: 10

Low Bidder

DBE PRIME CONTRACTOR CERTIFICATION[1]:	TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE)	TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE)
	6	$ 397,806.00

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED[2]	WORK CATEGORY CODES[3]	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 ($)
1	Lead Compliance Plan	C8851	Adarta, Inc DBE Certificate #37857 928 School Street Napa, CA 94559 707-709-8894	$ 1,800.00
2	Construction Area Signs	C0800	Associated Traffic Safety DBE certificate #36321 (P) 805-461-1800 P.O. Box 2221 Atascadero, CA 93423	$ 3,300.00
4	Portable Changeable Message Signs	C0800	Associated Traffic Safety DBE certificate #36321 (P) 805-461-1800 P.O. Box 2221 Atascadero, CA 93423	$ 4,000.00
8	Prepare Water Pollution Control Program	C8852	Appian DBE Certificate #36334 5780 Olinda Road El Sobrante, CA 94803 (P) 510-854-9402	$ 1,000.00
21	Roadside Clearing Hauling - Stump Chips Only	C9774	Dominguez & Sons Trucking DBE Certificate #40407 (P) 408-971-3744 529 N. 10th St. San Jose, CA 95112	$ 54,000.00
22	Imported Topsoil - Hauling Only	C9774	Dominguez & Sons Trucking DBE Certificate #40407 (P) 408-971-3744 529 N. 10th St. San Jose, CA 95112	$ 25,000.00

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.).

[1]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.

[2]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.

[3]Use Work Category Codes from the California Unified Certification Program database.

Total Claimed Participation: $

Continued next page, See Total on Page 2

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

10/17/16
Date

510-549-3954
(Area Code) Tel. No.

Charles Slesinger
Person to Contact (Please Type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

DBE - COMMITMENT

DES OE-0102.10D (REV 12/2014)

CONTRACT NO: 05-0T9904

BID AMOUNT: $ $ 846,532.30

BID OPENING DATE: 10/13/2016

BIDDER'S NAME: The Professional Tree Care Co.

DBE GOAL FROM CONTRACT %: 10

DBE PRIME CONTRACTOR CERTIFICATION[1]:	TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE)	TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE)
	6	$ 387,808.00

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED[2]	WORK CATEGORY CODES[3]	NAME OF DBEs (Must be certified on the date bids are opened. Include California certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors)	AMOUNT ($)
36	Fence Sign	C0600	Associated Traffic Safety DBE certificate #38321 (P) 805-461-1600 P.O. Box 2221 Atascadero, CA 93423	$ 1,820.00
37	Delineator	C0600	Associated Traffic Safety DBE certificate #38321 (P) 805-461-1600 P.O. Box 2221 Atascadero, CA 93423	$ 350.00
38	Object Marker	C0600	Associated Traffic Safety DBE certificate #38321 (P) 805-461-1600 P.O. Box 2221 Atascadero, CA 93423	$ 420.00

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.).

[1]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.

[2]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.

[3]Use Work Category Codes from the California Unified Certification Program database.

Total Claimed Participation	$ 91,300.00
	10 %

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

10/17/16
Date

510-548-3854
(Area Code) Tel. No.

Charles Slesinger
Person to Contact (Please Type or Print)

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

DBE CONFIRMATION

DES-OE-0102.13 (NEW 05/2015)

Contract no.: 05-0T9904

Name of DBE business: Dominguez & Son's Trucking

Name of DBE representative: Mark Lopez Jr.

DBE certification number: 40407

Name of bidder: The Professional Tree Care Co.

Name of prime contractor if different from the bidder

Name of representative of bidder or prime contractor: Charles Slesinger

Date: 10/17/2016

Bid item number	Item of work and description of services to be subcontracted or materials to be provided	Amount ($)
21	Roadside Clearing Hauling - Stump Chips Only	$ 54,000.00
22	Imported Topsoil - Hauling Only	$ 25,000.00
	Total	$ 79,000.00

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.

Off-hauling of stump chips only, stumps to be ground by others.

Importing of topsoil only, topsoil to be supplied by others.

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

Signature of DBE's authorized representative:

Mark Lopez Jr.

Printed name of DBE's authorized representative:

Operations Manager

Title of DBE's authorized representative:

10/17/2016

Date:

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Dominguez & Son's TRUCKING

Date: October 13th, 2016
To: Charlie Slesinger
Re: Caltrans Project No. 05-0T9904

Our rates for the following project are as follows:

* High Side end dump: $110 / hour (6 hour minimum)
Approximate rate to haul stump chips will be $54,000

* Low Side end dump: $105 / hour (6 hour minimum)
Approximate rate to bring top soil to site will be $25,000

If you have any questions regarding this proposal please feel free to contact me via email or by phone.

Thank you for the opportunity.

Mark Lopez Jr.
Operations Manager
Dominguez & Sons Trucking, Inc.
DIR No.: 1000016943
DBE Certification No.: 40407

Phone: 408-971-3744
Email: mark@dominguezandsons.com

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

DBE CONFIRMATION

DES-OE-0102.10 (NEW 05/2016)

Contract no.: 05-0T9904

Name of DBE business: Adanta, Inc.

Name of DBE representative: Kimberly Patz

DBE certification number: 37367

Name of bidder: The Professional Tree Care Co.

Name of prime contractor if different from the bidder:

Name of representative of bidder or prime contractor: Charles Siesinger

Date: 10/17/2016

Bid item number	Item of work and description of services to be subcontracted or materials to be provided [1]	Amount ($)
1	Lead Compliance Plan	$ 1,300.00
	Total	$ 1,300.00

[1] 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.

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

Kimberly Patz

Signature of DBE's authorized representative:

Kimberly Patz

Printed name of DBE's authorized representative:

President

Title of DBE's authorized representative:

10/17/2016

Date:

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DBE

Adanta, Inc.
828 School Street
Napa, California 94559
Tel. (707) 709-8894
Fax (707) 736-8368

8(a), DBE, MBE, WBE
CSLB #961132
DBE Certificate #37357
DIR Registration #1000029442

October 6, 2016

Attn: Estimator

Subject: **Caltrans Contract 05-0T9904**

Description	*Qty*	*Unit Cost*	*Total Cost*
LEAD COMPLIANCE PLAN	1	LS	$1,300

Dear Estimator:

Adanta, Inc. is pleased to present this bid to provide environmental services for the above referenced project. This quote includes up to two revisions per plan without additional cost and all plans are delivered in PDF electronic format only. Quotes for air monitoring and lead/asbestos training are available upon request.

Please send DBE Confirmation forms to Operations Manager, Cheryl Moore at cheryl.moore@adanta-inc.com and feel free to contact us at (707) 709-8894 if you have any questions.

Sincerely,

Kimberly Patz, President

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

DBE CONFIRMATION

DBE-OE-0102.13 (NEW 05/2015)

Contract no.: 05-0T9904

Name of DBE business: Applan UDBE SWPPP

Name of DBE representative: THOMAS KOPREK

DBE certification number: 38334

Name of bidder: The Professional Tree Care Co.

Name of prime contractor if different from the bidder:

Name of representative of bidder or prime contractor: Charles Slesinger

Date: 10/17/2016

Bid item number	Item of work and description of services to be subcontracted or materials to be provided [1]	Amount ($)
6	Prepare Water Pollution Control Program (WPCP)	$ 750.00
	Total	$ 750.00

[1] 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.

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

T. Koprek

Signature of DBE's authorized representative:

THOMAS KOPREK

Printed name of DBE's authorized representative:

MANAGER

Title of DBE's authorized representative:

10/17/2016

Date:

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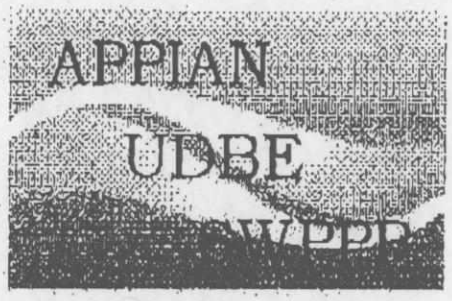

APPIAN UDBE SWPPP

Storm Water Pollution Prevention Plans
Water Pollution Control Programs
Lead Compliance Plans

Certified DBE, WBE, MBE & SBE:
BART - No. 38334
DIR # 1000005242

Business License Number 024786

5780 Olinda Road
El Sobrante, CA 94803

Phone: (510) 854-9402
Fax: (510) 258-0103

Friday, October 7, 2016

ATTN: Estimator

RE: Contract: **Caltrans – 05-0T9904**

Remove guardrail and tree stumps.

Bid Date: **October 13, 2016**

Please find below the APPIAN SWPPP quote for the referenced project. Price includes three draft copies of the plan, additional copies of the approved plan if required by the Special Provisions, amendments and corrections. Plan preparation is in compliance with State, Regional and Local Storm Water Discharge Regulations and as required by the Special Provisions.

Item #	Item Code	Items bid individually	Bid Price
1	070030	Lead Compliance Plan*	$1,900.00
6	130200	Prepare Water Pollution Control Program (WPCP)	$750.00

* Plan preparation only. Awareness Training, Monitoring or Sampling & Analysis not included.

Good luck,

Thomas Koprek
Estimator
(510) 854-9402

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

DBE CONFIRMATION

DES-OE-0102,13 (NEW 05/2016)

Contract no.: 05-0T9904

Name of DBE business: Associated Traffic Safety

Name of DBE representative: Kellie Avila

DBE certification number: 38321

Name of bidder: The Professional Tree Care Co.

Name of prime contractor if different from the bidder:

Name of representative of bidder or prime contractor: Charles Sleisinger

Date: 10/17/2016

Bid item number	Item of work and description of services to be subcontracted or materials to be provided [1]	Amount ($)
2	Construction Area Signs	$ 2,750.00
4	Portable Changeable Message Sign	$ 3,000.00
36	Fence Sign	$ 1,350.00
37	Delineator	$ 255.00
38	Object Marker	$ 300.00
	Total	$ 7,655.00

[1] 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.

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

Signature of DBE's authorized representative: Kellie Avila

Printed name of DBE's authorized representative: President

Title of DBE's authorized representative: 10/17/16

Date:

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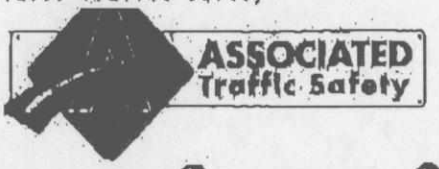

P.O. Box 2221 Atascadero, CA 93423 Phone 805.461.1600 Fax 805.461.1613

FAX MEMO

TO: Estimator FROM: Ken Johnston

ATTN: PAGES: 6

FAX: DATE: Oct 13, 2016

PHONE: CC:

RE: Caltrans 05-0T9904

WE ARE CERTIFIED DBE # 38321

KELLIE AVILA CONSTRUCTION SERVICES, INC.
dba

P.O. Box 2221 Atascadero, CA 93423 • Phone 805.461.1600 • Fax 805.461.1613
Public Works Contractor Registration # 1000013321
DBE Firm ID – 38321 • Contractors License No. 962161

13-Oct-16

CONTRACT INFO 05-0T9904

THIS PROPOSAL AND ATTACHED PROVISIONS ARE TO BECOME A BINDING PART OF ANY SUBCONTRACT

ITEM	DESCRIPTION	UNIT	QTY	$/UNIT	TOTAL
2	**Construction Area Signs**	LS	1	LS	$ 2,760.00
	*Price above includes signs from CS-1 furnished, installed and removed				
	*All signs to be installed per plan CS-1 and to be installed with (1) mobilization for removed with (1) mobilization. Additional mobilizations will be charged at $800.00 per each.				
	* Signs will be covered at installation if required and contractor will be responsible to uncover when needed and recover when not required. Contractor is responsible for sign maintenance.				
	* All signs and posts are to remain the property of Associated Traffic Safety upon the completion of the project.				
	* Associated Traffic Safety will notify USA for its work only at no extra charge to the general contractor				
3	**Traffic Control System**	LS	1	LS	
	* Traffic plan not included in item				
	* See next page for traffic control rates				
4	**Portable Changeable Message Sign**	LS	1	LS	
	* $160.00/Day :$400.00/ Week : $1,000.00/Month				
	* $400.00 delivery fee per PCMS : $400.00 pick up fee per PCMS				
36	**Fence Sign**	EA	30	$ 45.00	$ 1,350.00
37	**Delineator (Class 1)**	EA	3	$ 85.00	$ 255.00
38	**Object Marker**	EA	3	$ 100.00	$ 300.00
	Items 37 & 38 will be installed together with one mobilization				

Note: Items 36, 37 & 38 must be bid together and if used bid with item 2.

Total $ 4,665.00

October 17, 2016

Office Engineer
Department of Transportation
Contract Awards MS 43
1727 30th Street
Sacramento, CA 95816

RE: CONSTRUCTION ON STATE HIGHWAY IN MONTEREY COUNTY NEAR KING CITY FROM CENTRAL AVENUE TO LAGOMARSINO AVENUE, Project 05-0T9904

Gentlemen:

Please find enclosed our DBE Commitment Form, as well as the DBE Confirmation Forms and Proposals from DBE subcontractors listed for the above referenced project.

As a note of clarification, our Electronic Bid did not include the California State Contractor's License Number of Dominguez and Sons Trucking because Trucking does not require a California State Contractor's License.

Dominguez and Sons Trucking is licensed under the classifications C12 and C21, but these are not relevant classifications for their scope of work under this proposal. We chose not to include their license number for this reason. Should you require it for any reason, the California State Contractor's License Number for Dominguez & Sons is 829081.

Please let me know if you have any questions or need additional information.

Thank you.

Sincerely,

THE PROFESSIONAL TREE CARE CO.

Charles Slesinger
Bid Coordinator

Enclosures

John Madonna Construction Co., Inc.
General Engineering License No. 358030
P.O. Box 5310
San Luis Obispo, CA 93403
Telephone: 805-543-7751
Fax: 805-543-7754

FAX COVER SHEET

Date: 10/20/2016 Pages (Including Cover): 18

To: Department of Transportation
Division of Engineering Services
Attn: Jill Sewell
Fax#: (916) 227-6282
From: John Madonna

Re: Bid Protest Contract 05-0T9904