



# County of Santa Cruz

0251

## DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 950604070  
(831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

THOMAS L. BOLICH  
DIRECTOR OF PUBLIC WORKS

AGENDA: JUNE 5, 2001

May 23, 2001

### SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street  
Santa Cruz, California 95060

SUBJECT: SWANTON ROAD BRIDGE, P.M. 4.0, STATE NO. 36C-0018  
FOREST HILL DRIVE BRIDGE OVER BEAR CREEK, P.M. 0.2  
STATE NO. 36C-0134  
EAST ZAYANTE ROAD BRIDGE, P.M. 3.2, STATE NO. 36C-0142  
EAST ZAYANTE ROAD BRIDGE, P.M. 3.7, STATE NO. 36C-0143  
SEISMIC RETROFIT PROGRAM, NO.BRLOZB-5936 (052)

#### Members of the Board:

The Board of Supervisors received eight bids for the subject project on April 24, 2001. The engineer's estimate was \$244,275.00. The low bid was received from J. C. Randolph, Inc. of Aptos, CA in the amount of \$190,773.48. This construction project had a Disadvantaged Business Enterprise (DBE) goal of 12 percent. J. C. Randolph's proposal contained zero DBE participation. In accordance with the County's DBE Program, J. C. Randolph's "good faith effort" information was reviewed. The initial determination was that a "good faith effort" was not made on the part of J. C. Randolph. Attached for your information is a copy of the department's determination letter and the contractor's appeal of that decision, along with an acknowledgment of that appeal from the Chairman of the Board of Supervisors.

In accordance with the DBE policy, Mr. Randolph requested administrative reconsideration of this initial decision. Reconsideration was undertaken including review of additional information provided by his company. The result of the reconsideration process was to uphold the original determination that a "good faith effort" was not made on their part in attempting to meet minimum DBE criteria.

The next low bidder is Anderson Pacific Engineering Construction of Santa Clara with a bid in the amount of \$206,560.00. Anderson Pacific Engineering Construction was only able to achieve 8.7 percent DBE participation, but has provided sufficient documentation indicating that a "good faith effort" was made on their part in requesting participation by qualified DBE subcontractors.

Funding for the project was included in the approved 2000/2001 Road Program with all costs attributed to the seismic retrofit of the bridges in this group of projects being 100 percent reimbursable by CALTRANS.

It is therefore recommended that the Board of Supervisors take the following action:

1. Reject the bid of J. C.. Randolph, Inc. as being non-responsive to the County's DBE Program requirements.
2. Accept the low bid of Anderson Pacific Engineering Construction in the amount of \$206,560.00 and authorize award of the contract.
3. Authorize the Director of Public Works to sign the contract on behalf of the County.

Yours truly,




THOMAS L. BOLICH  
Director of Public Works

WBW:bbs

Attachments

RECOMMENDED FOR APPROVAL:



County-Administrative Officer

copy to: Anderson Pacific Engineering Construction  
J. C. Randolph, Inc.  
Ajita Patel, Personnel  
Public Works Department

ZAYB



# County of Santa Cruz

0253

## DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 950804070  
(831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

THOMAS L. BOLICH  
DIRECTOR OF PUBLIC WORKS

May 1, 2001

JOHN C. RANDOLPH, PRESIDENT  
J. C. RANDOLPH, INC.  
1097 Pleasant Valley Road  
Aptos, CA 95003

SUBJECT: SWANTON ROAD BRIDGE, P.M. 4.0  
FOREST HILL DRIVE BRIDGE OVER BEAR CREEK, P.M. 0.2  
EAST ZAYANTE ROAD BRIDGE, P.M. 3.2  
EAST ZAYANTE ROAD BRIDGE, P.M. 3.7  
SEISMIC RETROFIT PROGRAM, NO. BRLOZB-5936 (052)  
DBE PARTICIPATION

Dear Mr. Randolph:

On April 24, 2001, your firm submitted a bid proposal for the subject project. This project had a goal of 12 percent DBE participation. In your bid documents, page "Proposal-1 6," you indicated zero DBE participation.

On April 24, 2001, Bill Williamson of our staff faxed you a copy of excerpts from the County of Santa Cruz's DBE Program indicating that you had until 4:00 p.m., Monday, April 30, 2001, to show evidence of a "good faith effort" on your part to solicit DBE participation,

We have received and reviewed your good faith effort information you submitted with a letter dated April 25, 2001. After reviewing the information provided, we have determined that you failed to make a good faith effort in regard to soliciting DBE participation. Based on this information, we are recommending that your bid be rejected as non-responsive and that the project be awarded to the second low bidder.

While your good faith effort information indicated that you support the DBE Program and employ minority workers on your crew, it fails to indicate any good faith efforts that were undertaken by you. The only advertising that you claim is by the Santa Cruz County Builders Exchange. You submitted copies of a web page advertising our project that listed your firm along with 14 other firms as being plan holders. This advertisement does not qualify as a good faith effort

on your part inasmuch as it resulted from Public Works' placement of the ad with the Builders Exchange as well Public Works notifying the Builders Exchange as to plan holders, Your only other documentation appears to be copies of Small Business Administration web page searches undertaken on April 25, 2001, after bids were opened.

As an example of a good faith effort that is acceptable, the second low bidder was able to achieve DBE participation of 8.7 percent utilizing three DBE subcontractors. They were able to achieve this by ten direct mailings of solicitations to DBE subcontractors followed up by phone calls. In addition, they placed ads in two construction publications with large state wide direct mail circulation, soliciting DBE participation. The two publications were Construction Update and Minority Bidders Bulletin.

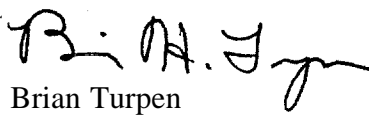
There were eight bids submitted for this project. Five bidders were able to include DBE participation ranging from 7.25 percent up to 16 percent, while your firm proposed no DBE participation. Two firms did not submit any data, so it is not possible to determine their proposed DBE participation.

Because of your lack of DBE participation and absence of good faith effort, we will be recommending that the Board of Supervisors reject your bid as being non-responsive and recommend award of this project to the second low bidder.

In accordance with the County's DBE Program, you have ten days to request administrative reconsideration of this decision. Attached for your information are pages 10 and 11 of the County's policy outlining the administrative reconsideration process. Your written request should be sent to Charlie Jones, Reconsideration Official, Assistant Director of Public Works, 701 Ocean Street, Room 410, Santa Cruz, CA 95060.

Yours truly,

THOMAS L. BOLICH  
Director of Public Works

By:   
Brian Turpen  
Assistant Director  
of Public Works

BHT:bbs

Attachments

copy to: Dana McRae, County Counsel  
Ajita Patel, Personnel  
Bill Williamson, Public Works  
Charlie Jones, Public Works

**XVII Good Faith Efforts (\$26.53)**Information to be Submitted

0255

The County treats bidder&/offerors compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information to County of Santa Cruz, Public Works Department, 701 Ocean Street, Room 410, Santa Cruz, CA 95060 no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

1. The names and addresses of known DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence. of good faith efforts.

Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26 which is attached.

The following person is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Brian Turpen, Assistant Director of Public Works.

The County will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

Administrative Reconsideration

Within 10 days of being informed by the County that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Charlie Jones, Assistant Director of Public Works, 701 Ocean Street, Room 410, Santa Cruz, CA 95060 (83 1) 454-2160 or Ajita Patel, E.E.O. Analyst, 701 Ocean Street, Room 5 10, Santa Cruz, CA 95060 (83 1) 454-2600. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make/document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument Concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the

reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The County will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.' The result of the reconsideration process is not administratively appealable to Caltrans, FHWA or the DOT.

#### Good Faith Efforts when a DBE is Replaced on a Contract

The County will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain the County's prior approval of the substitute DBE and to provide copies of new or amended 'subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, the County's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

#### XVIII Counting DBE Participation (§26.55)

The County will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of materials or supplies. See the Caltrans Sample Boiler Plate Contract Documents previously mentioned. Also, refer to XI, A. "After Contract Award."

#### XIX Certification (§26.83(a))

The County ensures that only DBE firms currently certified on the, Caltrans directory will participate as DBEs in our program.

#### XX Information Collection and Reporting

##### Bidders List

The County will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

##### Monitoring Payments to DBEs

Prime contractors are required to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the County, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by the County to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

**J.C. Randolph, Inc.**

1097 Pleasant Valley Rd.  
Aptos, Ca 95003



General Engineering Construction

May 11, 2001

County of Santa Cruz  
Public Works Department  
Thomas L. Bofich, Director

Re: Appeal – Decision to recommend bid of J.C. Randolph as non-responsive for Seismic Retrofit of 4 Bridges project.

**BACKGROUND:**

The issue is whether or not J.C. Randolph, Inc. the low bidder on a county project using federal highway grant funds can be awarded the contract. The question arises because of an initial determination by the department that the “Good Faith Effort” to find and include DBE firms was insufficient.

J. C. Randolph, Inc. is a locally owned Santa Cruz County, State Certified Small Business Enterprise. All of the individuals, owner operators, and the subcontractors are locally owned businesses with the single exception of the tie-back drilling company, of which there are none in the area. All of the employees who will work on the project (except tie-backs) are local. J.C. Randolph, Inc. has shown by its commitment and the results of its hiring practices, (please see our prior letters), that it practices and believes in eliminating discrimination. This is the first Federal highway funds project for our company.

J.C. Randolph, Inc. bid \$190,773.00. The second bidder was Anderson Pacific, Inc. at \$206,560.00, a difference of \$15,787.00 or 8.27%.

We wish to clarify our DBE “good faith effort” so that you can find that we did meet the requirements of the law. We will discuss this effort in two ways: 1. We will discuss our effort and the fact that it met the requirements for the use of federal funds on local projects. 2, We will discuss the various legal and unavoidably political issues, which enshroud the DBE procedures with vagueness and doubt.

**OUR FIRM MET THE REQUIREMENTS**

Section 2000 of the public contracts code specifies the requirements of the DBE “good faith effort” The requirements are as listed below with a discussion of the way in which our company responded to them.

**J.C. Randolph, Inc.** CA License No. 754253 Fax: 831-761-9575  
E-mail: [John@Randolphs.net](mailto:John@Randolphs.net) or [Cecily@Randolphs.net](mailto:Cecily@Randolphs.net)

Telephone: 831-724-2499  
Page 1 of 5

1. The bidder attended any pre-solicitation or pre-bid meetings that were scheduled by the local agency to inform all bidders of the minority and women business enterprise program requirements for the project for which the contract will be awarded. We are aware of none held by the county for this project.
2. The bidder is to identify parts of the project available for DBE participation We did this and listed the parts, even though this is especially difficult for a small business. We are supposed to offer subcontracts to people we have never met, know nothing about except possibly their race or gender, and we are supposed to bond their work. This is all supposed to happen inside of a few days or at the last minute when a flurry of faxes arrive with bids from all over. **That is not reasonable.** The system is flawed and discriminatory against the small and local businesses which by statute are to be encouraged by the department.
3. The bidder advertised in **“ONE or more advertisements in.. . trade association publications placed not less than 10 calendar days before the bid date”.**

We placed an ad in the Santa Cruz County Builders Exchange requesting DBE participation, from 4/11/01 to the bid date of 4/24/01.

The department's letter of 5/1/01, recommending that our bid be declared non-responsive made the following incorrect assumption about our advertising:

*“This advertisement does not qualify as a good faith effort on your part inasmuch as it resulted from Public Works' placement of the ad with the Builders Exchange as to plan holders.”*

**We have included with this letter, a signed affidavit from the Builders Exchange that verifies that our ad was the result of our own company initiated advertisement request.**

J.C. Randolph pays a yearly fee to belong to the Exchange. That paid membership gives us the opportunity to advertise for DBE and other subcontractors.

The department's letter goes on to make the assertion that our Web “searches were undertaken on April 25, after the bids were opened.”

We are not sure why the department can make this assertion. While some of the pages we printed out were printed on the 25<sup>th</sup>, after the department asked for further documentation, the actual searches were made prior to that date. Some searches were done weeks before. By our signature to this letter, we **certify** that we have searched the web prior to the bid opening date, several times in fact. Please note that the results of the web searches were negative in all cases and the timing of the printout is not relevant, There were no firms available or listed by the search. The good faith effort was made,

In the next paragraph of the department's letter, our company's effort is compared to an example of good faith from the second low bidder who managed to find out of town DBE participation in the amount of about 8%. While there appear to be some minor irregularities which prompted the department to request further information from them also, we do commend that company for its effort. There are some differences between our companies, however, which are relevant to Santa Cruz County. Please note that their participation was not a result of responses to their advertising



- or to their letters. There are “pro-forma” efforts suggested by Cal-Trans, and we have not found them to be effective either. The second bidder lists no local participation, and is from out of the Monterey Bay area,
- (4) The bidder provided written notice of his/her interest in bidding on the contract to the number of minority or women business enterprises required to be notified by the project specifications. We cannot find a requirement in the specifications which required a specific number of notifications.
- (5) through (9) deal only with negotiations between the bidder and BBE firms which expressed interest, NONE expressed interest, except one which sent a fax bid only after bid closing, (copy enclosed).
- (10) The catch all: . . . efforts were made which could reasonably be expected by the local agency to produce a level of participation sufficient to meet the goals and requirements of the local agency.

This is a hard one to cover briefly, and we will only touch on the surface of the relevant arguments. If the county wants more information as part of the consideration, we can supply it. Issues such as proper methodology by the department in formulating its DBE goals, constitutionality, etc. are involved.

As to the program “rules”, there is a Cal-Trans suggested “Good Faith Effort” example. It is against this example that we estimate the department is judging our effort. This program goes far beyond the requirements of the Federal regulations. The voters of California passed, on November 5, 1996, PROPOSITION 209, as supported by case law (Monterey Mechanical v. State of California, US. 9<sup>th</sup> Circuit Court of Appeals and a refusal by the U.S. Supreme Court to hear a challenge to the law,). PROPOSITION 209 provides that, **“the state shall not discriminate against, grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of . . . public contracting.”** It should be considered unconstitutional for a state or local agency to implement federal regulations in a stricter manner than is contained directly in the federal regulation where this anti-discrimination statute is concerned. It also leads one to the belief that it is in the best interest of the people of California to minimize the effects of the federal regulations, which are in conflict with state law. The department, therefore, should not seek to “over-zealously” interpret Cal-Trans regulations as the guiding force behind a federal program which grants discriminatory preferences for DBE participation, and which program is solely based upon ethnicity and gender.

Our company, a fully local Santa Cruz small business, relied upon our understanding of the following Santa Cruz County Ordinance:

***Chapter 2.33 Local hiring for public works projects.***

***. . . 2. The Santa Cruz County economy is ‘characterized by small, locally owned and operated firms. The state estimates the over eighty percent of county businesses employ less than twenty people....***

***...3. . .compared to statewide averages, the county has a lower concentration of jobs in construction.***

*...4. Given the high cost of living in Santa Cruz County.. the construction industry can provide a family supporting wage..*

*...5. The purpose of this chapter is to encourage contractors who receive county public works contracts to hire residents of the Monterey Bay Area....*

Section 2.33.030

*Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works project, all county contracts for a public works project shall contain provisions pursuant to which the contractor promises to make a good faith effort...to hire ... residents of the Monterey Bay Area ...so that no less than 50% of the ...workforce is comprised of these residents.*

Our company can find no statutory conflict between the federal regulations and the county ordinance. In fact, the federal regulations require that the contracting locality be a prime consideration when the local department sets its DBE goals. One of the methodologies outlined in the regulations for establishing a DBE goal is to find the number of DBE firms ready willing and able in the local contracting area to perform public works contracts of the nature contemplated and divide that number by the total number of contracting firms available in the local agency's contracting area. We have searched the Cal-Trans DBE database for Tri-County DBE firms. We found one and possibly two who qualify to do work like that needed for this project. In calling these firms, we find that large non-DBE firms have set up subsidiaries or other ways of meeting the rules. The program, while admirable in its goals, is being sadly abused by most and should not be aggressively promoted by our County.

The language contained in the law in no way prohibits the local agency from combining local small business programs with the use of DBE related federal funds. We assert that the department has an obligation to consider that our employees are all local. They all have the families, most have children, and they are the ones targeted by the above referenced ordinance.

In general, we hope that the department will regard the following excerpts from the Cal-Trans Local Programs Procedures manual with care.

1. *Reference to Part 21 of the Civil Rights Act of 1964, to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the FHWA.* J.C. Randolph is a 50% woman owned and operated business, Were it not for the fact that John Randolph, who currently owns the other 50% was a man, this whole issue would be null and void. We qualify for the small business part and we could, except for race and gender qualify so that a good faith effort would not be required. There is no way that by our race and gender we can be denied this contract. While we whole-heartedly support policies which work to rid our society of discrimination, we cannot accept the bald face assumption that all women or people of ethnicity other than white are disadvantaged. This assumption would be degrading to the Hispanic, woman owned, or other small businesses with which we do work. A Hispanic business will be supplying all the rebar for our project; they are not certified because they are reluctant to be labeled disadvantaged.

2. *Under the “Race Neutral – Race Conscious” section, Cal-Trans writes that the department shall arrange various components of the bid packages to “facilitate DBE and other small business participation.”*
3. *Good Faith Efforts: Cal-Trans writes, “We emphasize, however, that local agencies’ determining the sufficiency of the firm’s goodfaith efforts is a judgment call; meeting quantitative formulas is not required. Cal-Trans also strongly cautions local agencies against requiring that a bidder meet a contract goal in order to be awarded a contract.. .”*
4. *Non-discrimination clause: (Santa Cruz County) “will never exclude anyone from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 24 on the basis of race, color, sex, or national origin. In administering its DBE program, (Santa Cruz County) will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.*

Since J.C. Randolph, Inc. employs far higher than the local average of Hispanic, African American, women, and Native American workers, we contend that to deny this contract on the basis of the ethnicity or gender of the firms owners would be indirect exclusion of individuals targeted by the goals of the DBE program as well as direct discrimination against the owners of the firm. How can disadvantage groups be trained and earn experience which will someday allow them the possibility of business ownership?

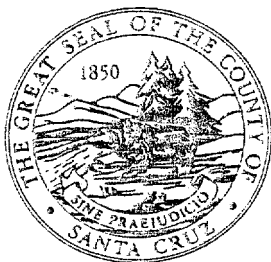
One last thought. Please note that the difference in the cost to the County between the first and second bidders is approximately enough money to donate the proposed DBE participation money to a good cause or other public work.

In summary, J.C. Randolph met the requirements of the DBE program. The DBE program may contain unconstitutional discriminatory elements, and it may have elements of its administration which are discriminatory to individuals based upon race, gender, etc. It is obviously contrary to the will of the people of California as evidenced by Proposition 209.

*John Randolph, President*

*Cecily Randolph, vice-president – Secretary*

*original will be hand delivered*



# County of Santa <sup>6-5</sup>Cruz

## BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ  
FIRST DISTRICT

ELLEN PIRIE  
SECOND DISTRICT

MARDI WORMHOUDT  
THIRD DISTRICT

TONY CAMPOS  
FOURTH DISTRICT

JEFF ALMQUIST  
FIFTH DISTRICT

May 23, 2001

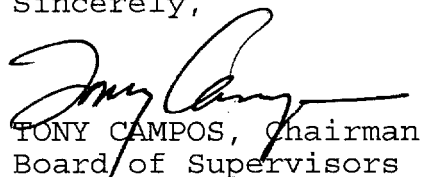
Cecily Randolph  
J.C. Randolph, Inc.  
1097 Pleasant Valley Road  
Aptos, CA 95003

Dear Mrs. Randolph:

Thank you for your letter dated May 16, 2001, advising the Board of your concerns with regard to the bid process concerning the seismic retrofit projects involving Swanton Road Bridge, Forest Hill Drive Bridge over Bear Creek, East Zayante Road Bridge P.M. 3.2, and East Zayante Road Bridge P.M. 3.7. Your previous letter appealing this matter directly to the Public Works Department is the appropriate course of action.

While the Board has not yet received any information with regard to a recommended bid award, it is my understanding that this matter is scheduled to return on our agenda of June 5, 2001. Accordingly, I have referred your letter to the Clerk of the Board for inclusion in the agenda materials at that time and will keep your comments in mind when we discuss this matter.

Sincerely,

  
TONY CAMPOS, Chairman  
Board of Supervisors

TC:ted

cc: Clerk of the Board  
✓Public Works Director

2581A6

**J.C. Randolph, Inc.**

1097 Pleasant Valley Rd.  
Aptos, Ca 95003



General Engineering Construction

May 16, 2001

Santa Cruz County Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

Ladies and Gentlemen:

As a local small business attempting to participate in public works contracts for the county I have run into difficulties with the award procedures implemented by the Public Works Department. I am currently appealing a decision on their part that we did not make a "good faith" effort to secure participation by disadvantaged businesses. Although my appeal is more lengthy, the salient points are:

- We did arrange for publication of a advertisement requesting participation by minority contractors in a trade association publication as per section 2000 of the public contracts law. We did not receive any positive responses.
- We are a small business as certified by the state.
- Our offices and all employees reside within the county, making us a local business.
- We presented a bid \$15,787 lower than the next lowest bidder, a large company that is not local.
- Our firm engages a high percentage of employees who are members of groups that have been identified as target groups for inclusion: with less than ten employees we count ourselves lucky to have represented Hispanic, African American, Native American, partially disabled, and female workers. To deny our participation in local public works limits their ability to earn a living wage and their ability to gain the experience to move up in the construction industry. This might be construed as indirect discrimination.
- Public Works made a decision that we had not placed an ad and had not searched in good faith before discussing our efforts with us. We heard second hand, from a sub-contractor, that the county had decided to reject our bid prior to our notification from the county.

I hope that you will review the enclosed appeal and encourage the various offices within the county government's jurisdiction to improve communication with local businesses attempting to secure work and to take a second look at this incident in particular.

Thank you for your consideration,

*Cecily S. Randolph*

COUNTY OF SANTA CRUZ  
REQUEST FOR APPROVAL OF AGREEMENT

00-01

0264

TO: Board of Supervisors  
County Administrative Officer  
County Counsel  
Auditor-Controller

FROM:

PUBLIC WORKS

(Dept.)

(Signature)

5.23.01

(Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same,

- Said agreement is between the COUNTY OF SANTA CRUZ (Agency)  
ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC.  
and 1390 Norman Avenue, Santa Clara, CA 95054 (Name & Address)
- The agreement will provide for the seismic retrofit of the E. Zayante Bridges @ M.P.  
3.2 and 3.7, the Swanton Road Bridge @ M.P. 4.0 and the Forest Hill Bridge over  
Bear Creek
- The agreement is needed because the work can be handled most expeditiously by contract.
- Period of the agreement is from Board Approval - to June 30, 2001
- Anticipated cost is \$206,560.00 (Fixed amount; Monthly rate; Not to exceed)
- Remarks: Contract \$206,560.00; Contingencies \$19,608.22; 7% Overhead \$15,831.78;  
\$242,000.00
- Appropriations are budgeted in 621100 ! 40207 ! 3596 ! (Index#) 3590 (Subobject)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and have been encumbered.  
are not will be

Contract No. 02429 Date 5.25.01

GARY A. KNEIBSON, Auditor-Controller

By

Deputy.

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the Director of Public S to execute the same on behalf of the Department of

Public Works (Agency).

Remarks:

(Analyst)

By

Date

5/29/01

Agreement approved as to form. Date

WBW:kbs

Distribution:

Bd. of Supv. - White  
Auditor-Controller - Blue  
County Counsel - Green  
Co. Admin. Officer - Canary  
Auditor-Controller - Pink  
Originating Dept. - Goldenrod

To Orig. Dept. if not filed

37

State of California )  
County of Santa Cruz ) ss

I, \_\_\_\_\_ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,

State of California, do hereby certify that the foregoing request for approval of agreement was approved by  
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered  
in the minutes of said Board on \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_

By \_\_\_\_\_ County Administrative Officer  
Deputy Clerk