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## MEMORANDUM

**Date:** November 20, 2024

**To:** Port of San Francisco

- Noel Aquino, Project Manager
- Tim Leung, Administrative Engineer
- Richard Robinson, Deputy City Attorney

San Francisco Public Works (SFPW)

- Alex Burns, Manager, Contract Administration Manager
- Alaric Degrafinried, Deputy Director, Strategic Initiatives
- Boris Deunert, Manager, Regulatory Affairs

**From:** Selormey Dzikunu, Contract Compliance Manager, SFPW

**Project:** Port Contract No. 2852R Amador Street Infrastructure Improvements Project

**Subject:** SBE, MBE WBE Participation Commitment & Good Faith Efforts Review and Award Recommendation

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### Overview

The San Francisco Public Works (SFPW) Contract Compliance Officer (CCO) has completed the review of all the bids and Good Faith Effort documentation and determined responsiveness to the established participation goals for the 2852R Amador Street Infrastructure Improvements Project. The established subcontracting participation goals are as follows: **15% for Small Business Enterprise (SBE), 10% for Minority-Owned Business (MBE) and 5% for Woman-Owned Business Enterprise (WBE).**

### Finding of San Francisco Public Works and the City and County of San Francisco

Based on this review, the Contract Compliance Officer has determined the following:

- JMB Construction, Inc., the apparent low bidder, exceeded the 10% MBE Goal by committing 16.47% to MBE Participation.
- JMB also exceeded the 5% WBE Goal by committing 5.72% to WBE participation.
- JMB committed 10.33% to SBE participation but fell short of the 15% SBE Goal by 4.67%.
- The CCO's review of JMB's Good Faith Efforts showed that JMB performed adequate good faith efforts towards meeting the SBE Goal.

## Bid Summary

Four firms submitted bids as follows:

Bidder	Status	Original Bid	Adjusted Total Bid
<b>JMB Construction Inc.</b>	<b>Non-SBE</b>	<b>\$10,236,543</b>	<b>\$10,236,543</b>
A Ruiz Construction and Associates Inc.	SBE-MBE	\$10,762,181	\$10,762,181
Minerva Construction Inc.	SBE	\$11,496,224	\$11,496,224
Anvil Builders Inc.	Non SBE	\$11,688,203	\$11,688,203

### **JMB Construction Inc. (\$10,236,543) Bid SBE, MBE & WBE Commitment Review**

JMB, the apparent low bidder, submitted SBE/DBE Form 1, Bidder and Subcontractor Participation Commitment Report and listed the following SBE, MBE and WBE subcontractors on the bid:

Firm	Service	SBE/MBE/WBE Status	SBE/MBE/WBE Participation	
SBE, MBE and WBE Certified Subcontractors			SBE/MBE/WBE Commitment On Awarded Bid	
Roadway Construction, Inc.	Traffic Control Partial	SF SBE LBE - MBE (Small)	\$272,855	2.67%
Bay Tech Engineering, Inc.	Electrical & Instrumentation	SF SBE LBE - MBE (Small)	\$498,765	4.87%
Lonestar Landscape	Landscape	CalTrans CUCP DBE MBE	\$489,590	4.78%
A1 Trucking SVS Inc.	Trucking	Caltrans CUCP DBE MBE	\$425,000	4.15%
<i>Subtotal MBE Commitment:</i>			<i>\$1,686,210</i>	<i>16.47%</i>
<b>Excess -MBE Commitment applied to SBE Sub Participation:</b> Excess MBE = (10,236,543 x 0.10) – \$1,686,210)			\$662,556	6.47%
CMC Traffic Control Specialist	Traffic Control	SFMTA SBE WBE (Small)	\$514,000	5.02%
Alta Group. Inc.	Reinforcing Steel	SF SBE LBE-WBE (Micro)	\$72,000	0.70%
<i>Subtotal WBE Commitment:</i>			<i>\$586,000</i>	<i>5.72%</i>
<b>Excess -WBE Commitment apply to SBE Sub Participation:</b> Excess MBE = (10,236,543 x 0.05) – \$586,000)			\$74,173	0.72%
RK Engineering Inc.	Concrete, Flatwork, Aggregate Base	SF SBE LBE -OBE (Micro)	\$201,000	1.96%
H&R Plumbing and Drain Cleaning, Inc.	Clean and Morter Manholes	Cal DGS SBE	\$20,000	0.20%

Pacific Boring	Pipe Jacking	Cal DGS SBE	\$99,858	0.97%
<i>Subtotal – Direct SBE Commitment:</i>			\$320,858	3.13%
Stroer & Graff	Electrical Partial	Non-SBE	\$118,016	1.15%
Redwood Painting	Coatings	Non-SBE	\$101,960	1.00%
Bailey Fence Co. Inc.	Fence & Gate	Non-SBE	\$16,700	0.16%
<b>Total - Certified MBE Sub Award Commitment:</b>			<b>\$1,686,210</b>	<b>16.47%</b>
<b>Total - Certified WBE Sub Award Commitment:</b>			<b>\$586,000</b>	<b>5.72%</b>
<b>Total SBE Sub Award Commitment:</b> (Direct SBE commitment + MBE Excess + WBE Excess)			<b>\$1,057,587</b>	<b>10.33%</b>
<b>Total Certified SBE+MBE+WBE Sub Award Commitment:</b>			<b>\$2,593,068</b>	<b>25.33%</b>

**JMB Commitment Summary:**

- JMB Exceeded the 5% WBE Goal and committed 5.72% (586,000) to WBE participation.
- JMB Exceeded the 10% MBE and committed 16.47% (1,686,210) to SBE Participation.
- JMB Failed to Meet the 15% SBE Goal and committed 10.33% (1,057,435) to SBE Participation.
- JMB was 4.67% short of the 15% SBE Goal.
- JMB's overall SBE commitment, MBE+ WBE+SBE is 25.33% (\$2,593,068).

**A Ruiz Construction & Associates Inc. (\$10,762,181) SBE, MBE and WBE Review**

The second lowest bidder, A. Ruiz Construction Co. (A. Ruiz) listed the following SBE, MBE and WBE firms and Non-SBE Subcontractors:

FIRM	SERVICE	SBE/MBE/WBE Status	SBE/MBE/WBE Participation	
SBE, MBE, WBE and Certified Subcontractors			SBE/MBE/WBE Commitment On Awarded Bid	
A Ruiz Construction	Self-Performing Prime	SF SBE LBE - MBE	\$4,770,655	44.33%
Delao Electric Inc.	Electrical	SF SBE LBE - MBE (Micro)	\$539,486	5.01%
Lavina Trucking	Partial Trucking	SF SBE LBE-WBE (Micro)	\$155,000	1.44%
AEW Engineering Inc.	Environmental Work	SF SBE LBE-OBE (Small)	\$54,100	0.50%
A Ruiz Construction	Self-Performing Prime	SF SBE LBE	\$4,770,654	44.33%
All Steel Fence, Inc,	Landscape and Fencing	SBA LBE	\$30,836	0.29%
Red Wood Painting	Coating	Non- SBE	\$101,000	0.94%
Marina Landscaping	Landscaping	Non-SBE	\$340,450	3.16%
Stroer & Graff Inc.	Shoring And Torque Down Pile	Non-SBE	\$413,000	3.84%
Total Certified MBE Prime Award Commitment:			\$4,770,655	44.33%
Total Certified SBE Prime Award Commitment:			\$4,770,654	44.33%
Total MBE Sub Award Commitment:			\$5,310,141	46.42%
Total WBE Sub Award Commitment:			\$155,000	1.44%
Total SBE Sub Award Commitment:			\$4,855,590	45.12%
Total SBE+MBE+WBE Award Commitment:			\$9,907,731	92.06%

**A Ruiz Commitment Summary:**

- A Ruiz Failed to meet the 5% WBE Goal. A Ruiz committed 1.44% (\$155,000) to WBE participation.
- A Ruiz Exceeded the 10% MBE Goal and committed 46.42% (\$5,310,141) to MBE Participation.
- Ruiz also exceeded the 15% SBE Goal by committing 45.12% to SBE Participation.

**Minerva Construction Inc. (\$11,651,024) Bid Review**

The 3<sup>rd</sup> lowest bidder, Minerva Construction Inc. (Minerva) listed the following SBE, MBE and WBE firms and Non-SBE Subcontractors:

<b>FIRM</b>	<b>SERVICE</b>	<b>SBE/MBE/WBE Status</b>	<b>SBE/MBE/WBE Participation</b>	
<b>SBE MBE and WBE Certified Subcontractors</b>			<b>SBE/MBE/WBE Commitment On Awarded Bid</b>	
<b>QA Constructors</b>		<b>SF SBE LBE - MBE (Micro)</b>	<b>\$263,317</b>	<b>2.26%</b>
<b>Bay Tech Engineering</b>	<b>Electrical</b>	<b>SF LBE SBE - MBE (Micro)</b>	<b>\$498,765</b>	<b>4.28%</b>
<b>GECMS</b>	<b>Street Basse</b>	<b>SF SBE LBE - MBE (Small)</b>	<b>\$391,200</b>	<b>3.35%</b>
<b>Alta Group Inc.</b>	<b>Rebar</b>	<b>SF LBE - WBE</b>	<b>\$87,000</b>	<b>0.74%</b>
<b>CMC Traffic Control Specialist</b>	<b>Traffic Control</b>	<b>CUCP DBE - WBE</b>	<b>\$500,000</b>	<b>4.29%</b>
<b>Minerva Construction Inc. (Self-Performing Prime Contractor)</b>	<b>GC</b>	<b>SF SBE LBE OBE</b>	<b>\$6,991,415</b>	<b>60.00%</b>
<b>JDB &amp; Sons Construction Inc.</b>	<b>Sewer</b>	<b>SF SBE-LBE-OBE</b>	<b>\$1,311,340</b>	<b>11.25%</b>
<b>Basset Engineering Inc.</b>	<b>Water</b>	<b>SF SBE LBE OBE</b>	<b>\$1,455,027</b>	<b>12.48%</b>
<b>H&amp;R Plumbing</b>	<b>Manhole</b>	<b>Cal GSA SBE</b>	<b>\$20,000</b>	<b>0.17%</b>
<b>Stroer &amp; Graff</b>	<b>Torque Down Piling</b>	<b>Non-LBE</b>	<b>\$118,000</b>	<b>1.01%</b>
<b>Redwood Painting Co.</b>	<b>Coating</b>	<b>Non-LBE</b>	<b>\$101,960</b>	<b>0.87%</b>
<b>Marina Landscape</b>	<b>Landscape</b>	<b>Non-LBE</b>	<b>\$93,000</b>	<b>0.79%</b>
<b>Total Certified MBE Sub Award Commitment:</b>			<b>\$1,153,282</b>	<b>9.89%</b>
<b>Total WBE Sub Award Commitment:</b>			<b>\$587,000</b>	<b>5.03%</b>
<b>Total SBE Sub Award Commitment:</b>			<b>\$2,786,367</b>	<b>23.91%</b>
<b>Total SBE Prime Award Commitment:</b>			<b>\$6,991,415</b>	<b>60%</b>
<b>Total MBE+WBE+SBE Award Commitment:</b>			<b>\$11,518,064</b>	<b>98.85%</b>

**Minerva Commitment Summary:**

- Minerva Met the 10% MBE Goal by committing 9.89% (\$1,153,282) to MBE Participation. Although short, this is considered a mathematical error and deemed responsive to the 10% MBE Goal.
- Minerva also met the 5% WBE Goal by committing 5.03% (\$587,000) to WBE subcontractors.
- Minerva exceeded the 15% SBE Subcontractor Participation Goal by committing 83.92% (\$9,777,782) to SBE Participation.

**Anvil (\$11,688,203) Bid Review**

The Fourth lowest bidder, Anvil Builders Inc. (Anvil) listed the following SBE, MBE and WBE Subcontractors:

FIRM	SERVICE	SBE/MBE/WBE Status	SBE/MBE/WBE Participation	
SBE, MBE and WBE and Certified Subcontractors			SBE/MBE/WBE Commitment On Awarded Bid	
DR Traffic	Traffic Control	SF SBE LBE - MBE (Micro)	\$300,000	2.57%
R&S Engineering	Structural Concrete	SF LBE SBE - MBE	\$350,560	3.00%
Esquivel Grading & Paving	Partial Trucking	SF SBE LBE - MBE (Small)	\$266,176	2.28%
Subtotal MBE Commitment:			\$916,736	7.84%
18 Trucking	Trucking	SF LBE MBE - WBE	\$265,000	2.26%
Golden State Trucking	Street Base	SF SBE LBE - WBE (Small)	\$40,000	0.34%
Alta Group	Rebar	CUCP DBE - WBE	\$65,500	0.56%
Catmex	Landscaping	SF LBE MBE - WBE	\$487,548	4.17%
Subtotal WBE Commitment:			\$858,048	7.34%
Excess -WBE Commitment apply to SBE Sub Participation: Excess MBE = (\$11,688,202 x 0.05) – \$858,048)			\$273,638	2.34%
Foundation Constructors	Piles	Non-SBE	\$240,000	2.05%
Blue Iron Foundation & Shoring	Shoring-	Non-SBE	\$135,000	1.15%
Subtotal Direct SBE Commitment			\$0.00	0%
Total Certified MBE Sub Award Commitment:			\$916,736	7.84%
Total WBE Sub Award Commitment:			\$858,048	5.25%
Total SBE Sub Award Commitment: (Direct SBE commitment + MBE Excess + WBE Excess)			\$273,368	2.34%
Total MBE+WBE+SBE Sub Award Commitment:			\$1,774,784	15.18%

### **Anvil Commitment Summary:**

- Anvil met the 5% WBE Goal by Committing 7.34% (\$858,048) to WBEs.
- Anvil failed to meet the 10% MBE Goal and committed only 7.84% (\$916,736) to MBEs.
- Anvil also failed to meet the 15% SBE Goal and committed 2.34% (\$273,368) to SBE Participation.

### **Relevant Bid Specifications and Good Faith Efforts Review**

#### **A. Section 00 22 14. Supplementary Instructions to Bidders: 1.3 Small Business Enterprise (SBE) Program states:**

##### **1.3 SBE, MBE AND WBE PARTICIPATION GOALS**

- a. The SBE participation goal for this Contract is 15%.
- b. The MBE participation goal is 10%
- c. The WBE participation goal is 5%

To be determined responsive, a bidder must demonstrate in its Bid submittal that it will meet the above goals in the performance of this Contract; or if it is unable to meet said goals, the bidder must submit **SBE Participation – Good Faith Efforts (SBE Form 2)** with its proposal that it performed good faith efforts to meet said goal prior to submission of the Bid.

#### **B. Section 00 22 14. Supplementary Instructions to Bidders: 1.11 A.B.C. D. States:**

##### **1.11 SBE, MBE AND WBE GOOD FAITH EFFORTS (GFE)**

- A. If the amount of SBE participation does not meet the contract-specific goal, the SFPW Compliance Officer will review the GFE report submitted by the Bidder with its Bid. The SFPW Compliance Officer will determine whether, prior to submission of Bid, the Bidder has performed the quality, quantity and intensity of efforts that demonstrates a reasonably active and aggressive attempt to meet the contract-specific goals.

##### **B. Good Faith Effort Evaluation**

If the apparent successful Bidder fails to meet above goals, SFPW will review and consider the 2nd, 3rd, 4th and all other bids in evaluating the quality, quantity and intensity of the Bidder's good faith efforts. A Bidder that is not responsive to the goals and that's good faith effort is found inadequate by SFPW, shall be ineligible for award of the contract.

- C. If the apparent successful Bidder fails to meet the goal but meets or exceeds the average SBE/MBE/WBE participation obtained by other bidders, SFPW may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. If the Low Bidder does not meet the average SBE,



MBE, WBE commitment of all other bidders, its Good Faith Effort may be declared inadequate.

- D. SFPW will make a fair and reasonable judgment whether low bidder that did not meet the goal made adequate good faith efforts. The quality, quantity, and intensity of the different kinds of efforts that the bidder has made will be considered. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain SBE/DBE, MBE and WBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements.

### **Evaluation of Good Faith Efforts made by JBM to comply with the 15% SBE Goal.**

JMB submitted SBE/DBE Form 1, SBE/DBE Bidder and Subcontractor Participation Report and Form 2 SBE/DBE Contractor/Subcontractor Participation - Good Faith Efforts with its bid. See Attachment 1. SBE/DBE Form 2 GFE & SBE/DBE Form 1, Bidder and Subcontractor Participation Commitment Report

1. On October 24<sup>th</sup>, The Port of San Francisco held a Pre- Bid Meeting and invited General Contractors, SBE, MBEs and WBEs from the California GSA SBE/DVBE Certification Program, San Francisco CMD's Small & Local Business Certification Program and Caltrans DBE CUCP Program to meet and network with prospective bidders for the project. JMB a was one of the Prime Contractors that attended the Pre-Bid Meeting.
2. From October 23, 2024, to November 4, 2024, JMB advertised in the DBE Journal, (DBE.Com) for quotes from SBE and DBE Subcontractors. The advertisement stated:

***"We are seeking quotes for the following scopes of work: Traffic Control, Trucking, Electrical, Reinforcing Steel, Misc Metals, Concrete, Jack & Bore, Landscaping, Paving & Sawcutting. The work to be done under this contract is located at Amador Street, City and County of San Francisco. This project is to perform infrastructure improvements to replace gravity sewer and storm drains, roadway pavement, landscape, the existing defunct Amador Street sanitary pump station and associated discharge force main pipe, fittings and appurtenances that ended at Amador Street utility corridor. The new sanitary pump station shall be equipped with automated, redundant instrument controls with provisions for future system expansion and all related and incidental work. SBE/DBE Goal: 15%. We are available to assist interested subs and vendors with questions regarding scopes of work, interpretation of bid documents, obtaining bonds, insurance and lines of credit r any other technical assistance needed. We can also assist DBE's in obtaining necessary equipment, supplies or materials. We are also available to discuss breaking out portions of work to encourage SBE/DBE participation. Interested SBE/DBE can also contact the City of San Francisco's CMD at <https://www.sfpuc.gov/construction-contracts/contractor-assistance/contractors-assistance-center> for additional information regarding assistance in Bonding and Insurance. Plans & Specs are available for review in our office or at <https://sfport.com/business/contract-opportunities>"***

3. Email records attached to JMB's bid show that on October 23rd and 24<sup>th</sup>, JMB sent more than 400 direct emails to SBEs, MBEs and WBEs "seeking quotes" with JMB's advertisement attached.
4. JMB provided records of more than 300 phone calls to SBEs in its GFE documentation.
5. JMB documented phone logs of calls made to more than 300 San Francisco CMD Certified Small and Local Business Enterprises.
6. JMB also made targeted calls and sent faxes to California GSA Certified Small Businesses.



7. JMB additionally called California Unified Certification Program (CUCP), certified SBEs.
8. JMB followed up with a second phone call, a second fax and emails to SBEs and DBEs
9. The review of JMB's GFE report also demonstrated that JMB broke out portions of work and encouraged SBE participation.
10. JMB reached out to Minority and Small Business Organizations with emails and phone calls with their advertisement, including the Black Contractor Association Inc., National Association of Minority Contractors, National Association of Women in Construction, Northern California Minority SDC and The Supplier Clearinghouse.

#### **JMB Good Faith Efforts Summary:**

- JMB solicited the participation of SBEs through all reasonable and available means, including attendance at the October 24<sup>th</sup> Pre-Bid Meeting organized by SFPW, where JMB was one of the Prime Contractors present to network with prospective SBE, MBE and WBE subcontractors.
- Additionally, JMB advertised in the DBE Journal from October 23<sup>rd</sup> to November 4<sup>th</sup>, 2024.
- Furthermore, JMB followed up initial solicitations by sending direct emails to SBEs firms.
- JMB also selected several portions of the work to be performed by SBE, MBEs and WBEs in order to increase the likelihood that the SBE goals will be achieved.
- The SBE, MBE and WBE Commitment Report shows that JMB broke its contract items into economically feasible units to facilitate SBE, MBE and WBE participation, even when JMB, the prime contractor might have otherwise preferred to perform these work items with its own forces.
- The review also shows JMB negotiated in good faith with its SBE, MBE and WBE Subcontractors.

#### **Conclusion and Award Recommendation**

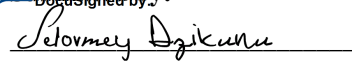
San Francisco Public Works finds that the Low Bidder JMB has performed the quality, quantity and intensity of efforts that demonstrates a reasonably active and aggressive attempt to meet the 15% SBE Goal.

JMB has demonstrated adequate good faith efforts to meet the 15% SBE participation goal and actually exceeded the 10% MBE Goal and the 5% WBE Goal for this bid, for the reasons cited above.

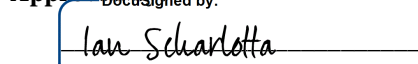
The CCO therefore recommends award of Port Contract No. 2852R Amador Street Infrastructure Improvements Contract to the low bidder JMB Construction Inc.

Should you have any questions, or need further assistance, please do not hesitate to contact me at [Selormey.Dzikunu@sfdpw.org](mailto:Selormey.Dzikunu@sfdpw.org) or at (628) 271-2094.

Submitted by:

  
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Approved by:

  
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