



Contra Costa County
Public Works
Department

Warren Lai, Director

Deputy Directors
Stephen Kowalewski, Chief
Allison Knapp
Sarah Price
Carrie Ricci
Joe Yee

June 12, 2025

Email: steve@eegilbert.com and U.S. Mail

E.E. Gilbert Construction
Attn: Stephen George
155 Howe Road
Martinez, CA 94553

RE: DBE Reconsideration Hearing
Wildcat Canyon Road Slope Failure Repair Project
County Project #0672-6U6266
Fed Project No.: ACSTP-15JP (161)

The County appreciates your attendance at the hearing on your firm's appeal and the DBE Reconsideration Hearing for the subject project, which was held on June 5, 2025 before a Hearing Panel consisting of the Public Works Director and two upper managers (Warren Lai, Joe Yee, and Jeff Acuff).

After further, thorough review of your firm's Good Faith Effort (GFE) and all documentation and argument presented by your firm, it is the Hearing Panel's determination that your firm failed to demonstrate an adequate GFE, as required in the project specs and the federal regulations for this project (see Notice to Bidders and Special Provisions, Sect. 2-1.12B; 49 CFR Part 26, Appendix A). Specifically, your firm's bid and GFE documentation had the following deficiencies:

- (1) The documentation submitted by your firm failed to meet the DBE requirements due to inadequate outreach to DBE firms, which resulted in not being able to meet the DBE participation goal.
- (2) Your firm failed to submit a complete summary sheet, organized by work areas/materials, listing all bids/quotes received by your firm and the reason(s) for acceptance or non-acceptance of those bids/quotes.
- (3) Your firm failed to submit a copy of all bids/quotes received by your firm.
- (4) Your firm failed to provide an adequate explanation or justification for rejection of the bids/quotes from S Kwok Engineers and Pacific Rig LLC.
- (5) Your firm failed to provide documentation of negotiation in good faith with all interested DBEs.

- (6) Of the 362 available DBE firms listed in the CUPC for the work areas identified by your firm, your firm contacted only 32 firms. Additionally, your firm did not solicit to DBE firms capable of performing all of the work identified, as required in 49 CFR Part 26, Appendix A.
- (7) At the Reconsideration Hearing, your firm presented a proposal to increase your firm's utilization of DBEs on this project, which would have increased your firm's DBE participation from 1.11% to 11.12%. The proposed addition of DBE subcontractors and suppliers after bid opening would amount to reformation of your firm's bid and cannot be allowed. Even if it could be allowed, your firm would still have not met the DBE goal and would have had to rely on your GFE, which was inadequate. Nevertheless, your firm's proposal shows that, with a proper, robust GFE before bid opening, your firm could have come close to meeting the 18% DBE goal.

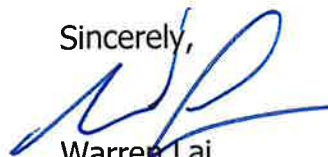
In addition, the Panel considered the DBE participation attained by the second and third monetary bidders (18.75% and 18.55%), which showed that the 18% DBE goal for this project was attainable and could have also been met by your firm with adequate GFE.

As a result, it is the decision of the Panel that:

- (1) Your firm's appeal does not have merit and is denied; and
- (2) Upon reconsideration, your firm has failed to show that the determination by Public Works staff was erroneous or should be reversed.
- (3) Your firm has failed to show that your firm's GFE was adequate under the project specs and federal regulations, which required all reasonable and necessary steps to achieve the DBE goal, as described more fully in 49 CFR Part 26, Appendix A.

Accordingly, Public Works staff intends to recommend to the Board of Supervisors, at its June 24, 2025 Board meeting, that your firm's bid be deemed non-responsive and that a construction contract be awarded to the lowest responsible bidder, Gordon N. Ball, Inc., for this project.

Sincerely,



Warren Lai
Public Works Director
Contra Costa County Public Works

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Decision (2025-6-11 DFS final version).docx
CC: Adelina Huerta, Public Works Dept., Design/Construction
Joe Yee, Public Works Dept., Deputy Director
Jeff Acuff, Public Works Dept., Capital Projects
David F. Schmidt, County Counsel
Michael J. George, County Counsel