

Subj: **Update & PW Budget Discussion at Council**
Date: 5/3/2013 2:07:22 P.M. Pacific Standard Time
From: WINSTEADCO@aol.com
To: Theinrichs@sandiego.gov

Tony:

I hope all is well with you and your colleagues.

You may recall that during our previous discussions re: streamlining and MACC, I noted AGC San Diego's politically potent Political Action Committee (PAC), and their litigation challenging the constitutionality of Caltrans' DBE Program. I noted their 2011 appeal of a lower court decision. A ruling was issued by a three judge panel of the Ninth Circuit Court on April 16. Not surprisingly, there was no reference to the ruling in AGC San Diego's "*Monday Morning Quarterback*" but it is certainly worthy of note.

Given AGC's considerable influence in the local construction community, and particularly the City of San Diego via their PAC, ongoing Liaison Committee meetings and lobbying, I thought I'd share the court ruling with you. It provides some interesting insights and troubling perspectives re: the views held and promulgated by AGC San Diego. The decision is attached FYI.

I am also forwarding a recent report from the Office of the Inspector General re: the DoT DBE Program. I think it highlights some challenges that can be found in many programs designed to address marketplace discrimination, whether at the State or local level. Oversight is insufficient; fraud is rampant, enforcement minimal and resources inadequate. I was pleased, however, to see the number of prosecutions of certification and other fraud and believe these kinds of enforcement efforts should be aggressively pursued at the local level.

I noted your remarks during a Public Works budget discussion at Council earlier this week, and was disappointed to hear your concerns about delays caused by EOC. I would offer that a limited staff, ongoing delays in launching a bidder registration system (*PlanetBids*), inadequate and long delayed IT monitoring/tracking systems may be significant contributing factors. I hope, going forward, you and your colleagues will take these sad realities into consideration with regard to EOC and its important role.

The disparity study the City commissioned in the mid-1990's found that the City was at least a passive participant in discrimination with regard to construction contracting. I'd like to hope that has changed, but I see very little evidence. I had hoped you would be a force to help change an engrained and regressive culture at the City -- and I will continue to do so. Please don't disappoint.

Warm regards,

Roz Winstead

Rosalind A. Winstead
Principal

AGC SAN DIEGO WEBSITE EXTRACTS

Government Relations

Meets: 3-6 times per year

The Government Relations Committee ensures that AGC of San Diego keeps a high profile position in the "political arena" at the local, regional, state and national levels. This will involve a continual analysis of all political efforts affecting the industry. The committee will annually develop legislative positions for distribution to the membership. It will work closely with our Legislative Advocate in Sacramento and with the AGC of California and AGC of America on all statewide and federal legislative matters. The committee is also responsible for advocacy of adequate infrastructure investment.

Political Action Committee (PAC)

(Government Relations Subcommittee)

Meets: 3-5 times per year

The PAC committee focuses its entire effort on fundraising and candidate endorsement. Specific activities include:

- A. Interviewing and recommending to the Government Relations Committee and to the Board of Directors candidates at the local, regional, state and national level for AGC San Diego endorsements.
- B. Developing an annual fundraising plan for Government Relations Committee and Board approval. In key election years this is particularly important. This fundraising should include a plan to solicit PAC donations; a plan for reception type fundraisers sponsored by members in the member's offices; and coordination of key individual donations with the AGC.

City of San Diego Liaison

This committee meets quarterly with the City of San Diego and periodically with other cities in San Diego County to discuss issues of importance between the construction industry and City officials. This committee has the responsibility to make sure industry and City concerns are addressed and communicated on a regular basis to the membership. The committee's focus is in solving the day to day challenges faced on construction sites. Topics will include but are not limited to bidding practices; specification content; payment schedules; inspection methods etc. The Government Relations Committee is responsible for general political matters involving the City of San Diego.

This committee is intended to include contractors, subcontractors, and material suppliers involved in working with the City.

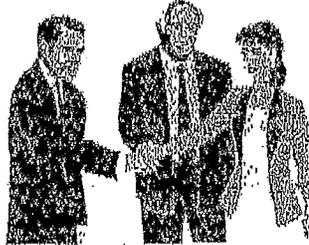
REMAINING 2013 DATES FOR AGC SAN DIEGO & CITY OF SAN DIEGO LIAISON & CITYWIDE MEETINGS:

May 23
July 25
Sept. 16

Oct. 17 - Industry-wide meeting
Nov. 14



Associated General Contractors of America, San Diego Chapter, Inc.
8212 Ferris Square, San Diego, CA 92121, (858) 558-7444 / Fax (858) 558-8444/www.agcsd.org



AGC/DOUGLAS E. BARNHART, INC.

SALUTE TO

CITY ATTORNEY, CASEY GWINN

TUESDAY, SEPTEMBER 21, 1999, 5.00 P.M. — 6.30 P.M.

AT:

DOUGLAS E. BARNHART, INC.

17075 CAMINO SAN BERNARDO

RANCHO BERNARDO, CALIFORNIA

With City of San Diego staff attempting to impose a MBE/WBE quota system on the construction industry, AGCs interaction with City Attorney, Casey Gwinn is vital. How such an ordinance is viewed in light of Proposition 209 will be the City Attorney's call.

This salute to Casey Gwinn will give AGC members an opportunity to express their concerns over such an ordinance directly and personally to Mr. Gwinn.

Please attend this function on September 21st, or if you can not attend, send your personal check for up to \$250 made payable to the Friends of Casey Gwinn to the AGC.

Thank you for your help in this matter.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS OF AMERICA
SAN DIEGO CHAPTER, INC.

C. W. Burke
Executive Vice President

For Registration, please see other side →

1 **Equal Opportunity Contracting Program**

Advocates Presentation to San Diego City Council
September 22, 2008

2 **Historical Overview - Foundation for Failure**

- Lack of performance measures and accountability
- Ineffective program implementation
 - Lack of adequate monitoring and enforcement
 - Lack of accurate statistical data and reporting
- Continuous changes in EOC management & staff
 - 4 managers in < 18 months
- Undue influence by construction trade associations & lobbyists
 - Industry resistance to program enforcement
 - Capitulation by policy makers to industry pressure

3 **Aug. 2007 Action Plan vs. Reality**

- ACTION ITEM
 - Audit of EOC performance - referred to audit committee by Rules Committee October 1, 2007
- REALITY ✓
 - Docketed at Audit Committee October 18, 2007. Died at Committee. Audit never performed
- ACTION ITEM
 - Bi-annual reports to council beginning January 2008 w/statistics & compliance monitoring updates (No reports since FY03)
- REALITY ✓
 - FY07 stats due Jan 2008. Flawed data presented July 9th at PSNS: race/gender ownership unknown for 43% of consultants; 39% of vendors; 20% of construction firms; "Not Indicated" status confirms IT system flaws

4 **Aug. 2007 Action Plan vs. Reality (Cont'd)**

- ACTION ITEM
 - Clarification of requirement for Equal Opportunity Plan when disparity noted in Workforce Reports
- REALITY ✓
 - No clarification provided; no reports of desk audits, onsite EEO compliance reviews, or reporting of Federal Affirmative Action compliance
- ACTION ITEM
 - Centralized Bidder Registration & ERP implementation; electronic outreach and solicitation of bids
- REALITY ✓
 - Utilized "corrupted" tracking software (CIMS) & flawed bidder registration system in lieu of software recommended by EO Consultant

5

What the City Did Not Want Us To Know

Public Records Requests

September 7 & November 28, 2007 ■ January 16 & 17, 2008

- Subcontractor Outreach Program (SCOP) Waivers on projects totaling \$8.9 mil in FY07
 - No written guidelines and unknown authorization
- Minor Construction Program
 - 10% DBE Participation for FY06-FY07
 - 1 firm, 3 contracts totaling \$348K - \$3 mil total
- Design/Build & General Requirement Contracts
 - No DBE participation on \$20 mil in FY06 for D/B
 - No DBE participation on \$11 mil in FY06 for GRC
- Mentor Protégé Program
 - Sponsored by City of San Diego, County of San Diego, San Diego County Water Authority, & San Diego Convention Center Corporation
 - Only 4 firms "graduated" in 7 years

6 Benign Incompetence or Malicious Intent?

- Lack of attention to City Attorney Memorandum of Law indicating City's legal exposure
 - City is obligated to collect statistical data that includes ethnicity & gender
- Gross misrepresentations of prior program performance
 - Minor Construction; Design Build & GRC purported outcomes
- Available statistics indicate lowest utilization of certified firms
 - Statistics are incomplete & lack subcontracting data
- Repeated delays in SCOP implementation - *Bonus Points*
- Lack of transparency & politicized decision making under "Strong Mayor" form of government
- Escalating exclusionary culture that undermines access & equity for firms owned by people of color and women

7 Recommendations to Mayor & City Council

- Implement SCOP within 30 days
- Immediately implement consultant's recommendations regarding data collection processes and IT enhancements
- Recruit an experienced EO Program Manager
- Conduct independent performance audits of EOC
 - Outreach & Subcontractor utilization
 - EEO
 - Prevailing wage compliance
 - Federal Affirmative Action Compliance
- Recommend removal of construction trade association lobbyist and terminated Executive from GEOG; recommend new appointments