



Board Report

File #: 2020-0428, **File Type:** Motion / Motion Response

Agenda Number: 31.1.

**EXECUTIVE MANAGEMENT COMMITTEE
JUNE 18, 2020**

Motion by:

DIRECTOR GARCETTI

Related to Item 31: State Legislation

Assembly Constitutional Amendment 5

Assembly Constitutional Amendment 5 (ACA 5) presents a special opportunity to erase a stain on the record of California's fight against systemic racism. Should ACA 5 pass the legislature and be adopted by the voters of the state of California, Metro should be ready to act promptly to take advantage of new opportunities to advance racial and gender equity.

ACA 5 would effectively repeal Proposition 209, which was enacted in 1996 and prohibits the state and all its institutions and political subdivisions from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. Prop 209 did not impact Metro's requirements to comply with affirmative action requirements on federally-funded contracts. However, Prop 209 has otherwise prevented Metro from affirmative action to reverse the legacy and impacts of past racism and discrimination.

ACA 5 would open significant possibilities at Metro for race and gender-conscious procurement and equal opportunity in employment and equity. Additionally, there may be other opportunities related to targeted community engagement. ACA 5 would allow Metro to increase racial and gender equity, provide new opportunities for Minority Business Enterprises (MBEs) and Women-Owned Business Enterprises (WBEs) and enable a more inclusive and diverse workforce.

Metro has developed aggressive and comprehensive programs to help level the playing field, including the Disadvantaged Business Enterprise (DBE) program for federally-funded procurements, the Small Business Enterprise (SBE) program, SBE Prime set-aside procurements, the Disabled Veterans Business Enterprise (DVBE) program, and the Contracting Outreach and Mentoring program (COMP). However, in light of ACA 5, Metro will have more available tools to remedy racial and gender disparities to level the playing field for historically underutilized businesses.

The pursuit of racial justice demands action at every level of government and in every corner of society. We are called in this moment to right past wrongs, heal wounds, and reimagine a future that is just and equitable for all our children.

SUBJECT: ASSEMBLY CONSTITUTIONAL AMENDMENT 5

RECOMMENDATION

APPROVE Amending Motion by Director Garcetti that the Board direct the CEO to report to the Executive Management Committee in November with a race and gender action plan related to the prospective passage of ACA 5, including:

- Updating the disparity study, as applicable;
- Applying race-conscious and gender-conscious goals;
- Reactivating the MBE and WBE program;
- Considering a Historically Underutilized Business program;
- Expanding the DBE program to non-federally funded procurements;
- Strengthening race and gender-based hiring and advancement;
- Implementing targeted community engagement and empowerment;
- Updating the Equity Platform; and
- Other strategies related to ACA 5 that will meaningfully advance racial and gender equity both at Metro and in Metro's wide portfolio of services, projects, and programs.