



Board Report

File #: 2022-0786, File Type: Contract

Agenda Number: 18.

**CONSTRUCTION COMMITTEE
FEBRUARY 16, 2023**

SUBJECT: SMALL BUSINESS BONDING ASSISTANCE PROGRAM

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to approve a no cost Memorandum of Understanding (MOU) with the City of Los Angeles (City) for participation in the City’s Contractor Development and Bonding Assistance Program;
- B. AUTHORIZING the Chief Executive Officer to award a Contract to Merriwether & Williams Insurance Services (MWIS) for a not to exceed amount of \$2,650,780 for a three-year Bonding Assistance Program, effective March 1, 2023 to February 28, 2026, which piggy-backs on the City of Los Angeles’ contract; and

(REQUIRES SIMPLE, SEPARATE MAJORITY VOTE OF THE FULL BOARD)

- C. ADOPTING a resolution, Attachment A, authorizing the Chief Executive Officer and other Authorized Officers to continue the \$4,000,000 line of credit with Bank of America at a cost of \$18,000 per year, for three years and to execute as needed, individual standby letters of credit at a cost of \$2,000 each or 2% of the value of each letter of credit executed, whichever is greater.

ISSUE

Metro is seeking to award a new three-year contract with Merriwether & Williams Insurance services, Inc. (MWIS) to administer its Contractor Development and Bonding Assistance Program (CDBAP). The current contract was awarded in June 2019 for three years and extended in April 2022 by the Metro Board for an additional 12 months. The contract is scheduled to expire on May 31, 2023. Metro is piggy-backing on the City of Los Angeles’ CDBAP contract, and the City has awarded a new three year contract with MWIS which will expire on August 30, 2025, to administer their CDBAP program. Metro is also partnering with the City to share resources and reduce certain costs for consultant services. With the exception of the Contractor Finance Assistance Program (CFAP)

budget approved by the Metro Board in April 2022, the adoption of this contract will supersede the previous contract extension scheduled to terminate on May 31, 2023.

Recommendation “C” requires a separate majority vote of the Board since debt is being incurred to support the CDBAP program.

BACKGROUND

Metro participated in a pilot bonding assistance program and piggy-backed on the City of Los Angeles’ contract in 2018 and renewed the program with a three-year contract with MWIS that became effective June 1, 2019, and was scheduled to expire on May 31, 2022. The City of Los Angeles was not able to complete its procurement process to award a new contract to provide CDBAP services and approved two, as-needed six-month contract extensions until a new contract could be awarded. To align with the City’s contract extension, the Metro Board approved two, as-needed six-month contract extensions in April of 2022 until a new contract could be awarded.

Metro established a \$4,000,000 CDBAP line of credit for the program with Bank of America. The program provides bonding assistance to small businesses for a maximum amount of \$250,000 or 40% of the bond (whichever is lower) per bond transaction cap dollar amount. Other agencies partnering in the CDABP program include the Los Angeles World Airports, the Department of Water and Power, the Port of Los Angeles, SCM Public Works, and the County of Los Angeles.

Metro has issued five bonds to date for an aggregate amount of \$1.25 million to assist certified small businesses to bond and perform on over \$15 million in Metro contract awards on construction projects. Of the five bonds, two have been completed and are shown below.

Small Business Name	Assistance Amount	Metro Project	Cert. Type	Small Business Contract Award	Status
G&F Concrete	\$250,000	Rosa Parks Willowbrook Station	DBE SBE	\$1,253,850	Completed
SJN Builders, Inc.	\$250,000	Rosa Parks Willowbrook Station	SBE	\$5,091,101	Completed
KPA Constructors, Inc.	\$250,000	Regional Connector Transit Corridor	DBE SBE	\$3,691,555	Active
Global Electric	\$250,000	Westside Purple Line Section 1	DBE SBE	\$3,192,000	Active
KPA Constructors, Inc.	\$250,000	Westside Purple Line Section 1	DBE SBE	\$1,850,000	Active
Total				\$15,078,506	

Additionally, approximately 251 small business owners have graduated from the training academies provided by the consultant. Of these, 130 small business owners graduated from Metro sponsored training academies. MWIS provides staff with three specific program metrics that are used as key

performance indicators that are reported to Metro on a monthly basis. The key performance indicators below reflect activity from June 1, 2019 through October 31, 2022.

- MWIS has completed over 727 assessments of small businesses and completed workplans in an effort to increase their capacity.
- MWIS has referred over 556 small businesses to Metro's Vendor Portal, Certification or Pre-Qualification resources.
- MWIS has completed or enhanced over 592 contractor profiles to assist small businesses in strengthening their marketing plans.

DISCUSSION

Government agencies are required to obtain, from their prime contractors, performance and payment bonds on public works contracts over \$25,000. Payment bonds are required by Public Contracts Code Section 7103 and shall be equal to 100% of the contract price. Public Contract Code Section 6825 requires a design-build entity to provide payment and performance bonds for the project and in no case shall the payment bond be less than the amount of the performance bond. FTA Circular 4220.1F states the Common Grant Rules require performance and payment bonds in the amount of 100% of the contract price for construction contracts. Therefore, Metro construction contracts require its prime contractors to provide Payment and Performance bonds in the amount of 100% of the contract price in the form and format provided by Metro.

Staff also explored the feasibility of increasing the CDBAP program limit above \$250,000. Staff learned that the sureties that guarantee these bonds are comfortable with \$250,000 limit considering the potential risks involved. The CDBAP program consultant also reported that the current level of support adequately meets the needs of the small business community. However, future bond support may be available but only on a case-by-case basis.

Metro staff has also implemented the Contractor Finance Assistance Program (CFAP) which is part of the CDBAP program. The CFAP allows the certified small business to access up to 25% of their contract to help with a financial crisis such as delayed invoice payments or other Metro contract related costs the may present a financial barrier.

DETERMINATION OF SAFETY IMPACT

No safety impact

FINANCIAL IMPACT

The Board's approval of this contract includes the cost to continue the \$4 million line of credit with Bank of America at \$18,000 per year for a three-year total of \$54,000; the cost to execute individual stand-by letters of credit at 2,000 each up to \$80,000 per year depending on the number requested by certified small businesses at a cost not to exceed \$240,000 for three years, and the three-year

contract with MWIS in the amount of \$2,650,780.

The budget for the remainder of fiscal year 2023 is already included in the adopted budget. Since this is a multiyear contract, Bonding Program Manager and Cost Center manager are responsible for future year budgets through the Annual Budget Development process.

Impact to Budget

Current fiscal year costs for the MWIS contract and the Line of Credit fees are in Cost Center 2130. Funding will be from eligible and available funding sources which include General Funds. This fund is eligible for Metro Bus and Rail operations and capital expenses. Costs for individual letters of credit will be paid by the projects for which the contractors are providing services.

EQUITY PLATFORM

Staff recommendations will facilitate the implementation of programs that support local small, disadvantaged, minority, women and veteran owned businesses to become more sustainable, financially stable, and have access to capital like larger competing companies. The CDABP has assisted certified small businesses in capturing over \$15 million dollars in Metro contracts. These SBE and DBE contract dollars were reflected in the appropriate fiscal years towards Metro's annual percentage goals. Metro has set aspirational targets to achieve 48% small business participation in its' contracting by 2028. As staff administers programs such as the CDABP, it will assist in meeting Metro's 48 by 28 aspirational targets and strengthen efforts to grow small and disadvantaged business enterprises.

Staff supports continuing this program to provide financial, capacity building and bonding services to small businesses in this region. This was an open procurement by the City of Los Angeles and Merriwether & Williams was the only respondent to the request for proposal. Merriwether & Williams Insurance Services made a 19.5% SBE and 4.5% DVBE commitment to subcontractors performing on Metro's contract. On Metro's current contract, Merriwether & Williams made a 23.33% commitment and has attained 34.02% participation to date.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports strategic plan goal 5.5: Metro will expand opportunities for businesses and external organizations to work with us. The CDABP program expands Metro's capability to contract with construction companies on our projects, and also expands small businesses' ability to qualify for larger construction contract opportunities that have increased bonding requirements.

ALTERNATIVES CONSIDERED

The Metro Board could choose not to renew the CDABP program which would negatively impact small businesses by not providing the development, bonding and financial support that might be needed to perform on Metro contracts.

NEXT STEPS

- Upon Board approval, staff will execute a renewal Contract with MWIS for a three-year term.
- Extend the line of credit with Bank of America for a three-year term.
- Execute a no cost Memorandum of Understanding with the City of Los Angeles for a three-year term.

ATTACHMENTS

Attachment A - Contractor Development and Bonding Program MOU

Attachment B - Board Resolution

Attachment C - DEOD Summary

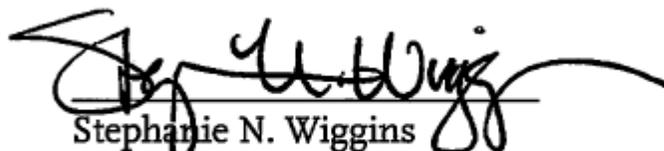
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