



● **Board of Directors**
Organization, Personnel and Technology Committee

3/8/2022 Board Meeting

7-7

Subject

Authorize the General Manager to sign the Equity in Infrastructure Project pledge and participate in the project to support opportunities for historically underserved and underutilized businesses; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

Metropolitan has been invited to join with four of the nation's leading infrastructure-constructing agencies as founding members of the Equity in Infrastructure Project (Project), a new initiative to improve access to public agency contracting and procurement opportunities for underserved and underutilized businesses. The participating agencies are signing a pledge of commitment to the goals of the Project to increase federal and local partnerships for infrastructure funding and financing, align and streamline administrative and certification processes, and increase contracting opportunities for historically underserved and underutilized businesses, consistent with each agency's state and local laws and regulations. Improving access to Metropolitan's contracting and procurement will expand the pool of businesses qualified to bid on Metropolitan's projects, thereby increasing competition and opportunities for innovation in project delivery.

Details

In 2001, Metropolitan launched its Regional/Small Business Program by Minute Item 44533. Over the past 21 years, Metropolitan has developed an aggressive and inclusive Business Outreach Program that funds the education of small businesses through ethnic and local chambers of commerce about Metropolitan's business needs. The program also helps facilitate business-to-business opportunities with networking and prequalification programs. Metropolitan's Business Outreach Program helps ensure that Metropolitan maintains access to a variety of qualified companies that can provide competitive, cost-effective, and innovative solutions for Metropolitan. The program has consistently met the board-established targets for a minimum of 25 percent of Metropolitan's contracts to be awarded to small, local, and disabled veteran-owned businesses in Southern California, resulting in an economic investment of \$1.2 billion to this business sector.

The Project is a new nationwide initiative to increase federal procurement and contracting opportunities for historically underserved and underutilized businesses. Metropolitan has been invited to join Denver Airport, Chicago Transit Authority, Port of Long Beach, and Southeastern Pennsylvania Transportation Authority as one of five founding agencies for the Project.

On December 7, 2021, Metropolitan's Chairwoman Gray and General Manager Hagekhalil attended a meeting in Washington, D.C. hosted by the United Brotherhood of Carpenters and Joiners International, along with the other participating agencies, Congressional and local leaders, representatives of the Department of Transportation and U.S. Environmental Protection Agency, and private foundations, among others, to consider steps and specific, actionable recommendations to improve the federal government's historically underutilized business (HUB) procurement policy and help close the nation's racial wealth gap by improving access and eliminating barriers for these businesses to procurement contracts.

The Social Impact Fund, a 501(c)(3) organization, in collaboration with Drexel University's Nowak Metro Finance Laband and with funding from the James Irvine Foundation, initiated the Project in anticipation of passage of the Infrastructure Investment and Jobs Act. The concept grew out of an initial white paper on the

federal HUB procurement policy, which identified impediments to contracting for businesses in HUB zones and potential actions that could be taken to eliminate barriers as a means to help close the nation's racial wealth gap.

The Project, as presented, is consistent with Metropolitan's existing programs and state law. Proposition 209, passed by a voter initiative in 1996, prohibits public agencies from granting preferential treatment in public contracting to individuals or groups on the basis of race, sex, color, ethnicity, or national origin. However, as subsequent court rulings have determined, programs designed to ensure equal access to contracting opportunities, as well as data collection and reporting programs that monitor such access, serve legitimate, non-discriminatory purposes and do not violate Proposition 209. In addition, Proposition 209 does not prevent public agencies from taking actions necessary to secure and maintain federal funding. Metropolitan is currently seeking federal funding for a new \$450 million large-scale Recycled Water Program, and many of the federal agencies that control such funding require compliance with Disadvantaged Business Enterprise (DBE) programs. These programs require that recipients of funding set DBE participation goals and demonstrate good faith efforts to meet them.

Since December 2021, representatives of the five agencies have continued to work on objectives, outreach, and program implementation, including a pledge of commitment to be approved by each of the agencies. Metropolitan staff provided input to the pledge language to clarify that agencies will work to meet the Project objectives in a manner that is consistent with their own mission, and state and local laws and regulations. The following pledge language has been adopted or calendared for adoption by the other four agencies and is now before Metropolitan for consideration and approval:

EQUITY IN INFRASTRUCTURE PROJECT PLEDGE

America is seizing a historic opportunity for generational investment in our infrastructure. We also have a historic opportunity to provide a pathway to create generational wealth and expand opportunities for sustainable jobs and careers for those historically left out.

As agencies representing different modes of infrastructure and geographies across the country, we pledge to take new action to increase the number, size and scope of contracts going to certified small and minority-owned businesses. For the purposes of this Pledge, this includes small businesses competing as Disadvantaged Business Enterprises (DBEs) for federally funded projects, and those competing for locally-funded projects as any category of historically underutilized businesses (HUBs). HUBs, by our definition, can include firms formally designated as DBEs, Minority and Women-Owned Business Enterprises (M/WBE), and Small Business Enterprises, and it can include any other business classification used locally in the United States intended to boost the participation of otherwise underutilized firms, which can vary by state, region, and municipality. We will partner with the federal government to ensure that funds from the bipartisan Infrastructure Investment and Jobs Act support the creation of generational wealth for diverse entrepreneurs and workers, especially in Black and Brown communities across America.

Starting from the baseline of our current actions and initiatives, by December 2025, we will work to increase the number, size, and percentage of HUBs growing to primes, joint ventures, or equity participants. We will do this by:

- *Increasing the number, size and proportion of contracts going to HUBs, as defined above;*
- *Increasing the number, size and proportion of contracts going to HUBs as prime contractors;*
- *Streamlining the administration of all above-listed contracting to centralize certification, improve payment time, and standardize transparent data collection;*
- *Increasing the amount and type of appropriate financing available to all above-listed firms aiming to meet infrastructure contracts by working with private and public partners;*
- *Expanding the number of signatories to this pledge.*

Support for the Pledge enhances Metropolitan's mission to provide its 5,200-square-mile service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

If authorized by Metropolitan's Board, the pledge language will be signed by the General Manager; and staff, in consultation with the General Counsel, will work collaboratively with other Equity in Infrastructure Program partners to advance a work plan to increase opportunities for historically underutilized and underrepresented businesses.

Policy

Metropolitan Water District Act Section 50: Powers

Metropolitan Water District Act Section 130: General Powers to Provide Water Services

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

By Minute Item 49829, on July 8, 2014, the Board modified the Business Outreach Program's organizational goal for small business participation from 18 percent to 25 percent.

By Minute Item 46589, on March 14, 2006, the Board added the inclusion of Disabled Veterans Business Enterprise classification into the outreach component of the Regional/Small Business Program.

By Minute Item 44533, on June 10, 2001, the Board adopted Resolution 8762 approving the modified Business Outreach Program and policy, titled "Resolution of The Board of Directors of The Metropolitan Water District of Southern California Approving Modifications to Metropolitan's Business Outreach Program."

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378(b)(2) and 15378(b)(5)) because it involves organizational or administrative activities and general policy and procedure making that would not result in a direct or indirect physical change to the environment.

CEQA determination for Option #2:

None required

Board Options

Option #1

Authorize the General Manager to sign the Equity in Infrastructure Project pledge and participate in the project to support opportunities for historically underserved and underutilized businesses.

Fiscal Impact: Unknown

Business Analysis: Provides support for a project that will assist Metropolitan in expanding access to a larger pool of businesses, thereby increasing competition and opportunities for innovation.

Option #2

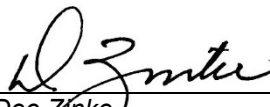
Take no action.

Fiscal Impact: Unknown

Business Analysis: Metropolitan will forgo an opportunity to formally collaborate with other public agencies in expanding contracting opportunities.


Staff Recommendation

Option #1



Dee Zinke
Assistant General Manager,
External Affairs

2/2/2022
Date



Adel Hagekhalil
General Manager

2/3/2022
Date

Ref# hr12684163