



## Board Report

File #: 2022-0304, File Type: Contract

Agenda Number: 7.

### EXECUTIVE MANAGEMENT COMMITTEE JUNE 16, 2022

**SUBJECT: MYSTERY RIDER PROGRAM (ADA/LEP)**

**ACTION: APPROVE CONTRACT AWARD**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to award a five-year firm-fixed unit rate Contract No. PS43587000 with Mobility Advancement Group to provide mystery rider observations for an amount not-to-exceed \$835,992 for the three-year base term, \$306,984 for the first option year, and \$322,332 for the second option year, for a total not-to-exceed amount of \$1,465,308, effective August 1, 2022, subject to resolution of protest(s), if any.

#### **ISSUE**

The current Mystery Rider Program (MRP) contract, executed in July 2017, will expire on July 31, 2022. MRP monitors and reports on the effectiveness of Metro's fixed-route bus services and all of Metro's contracted bus services (operated by outside bus contractors) in their adherence to Americans with Disabilities Act (ADA) requirements, accessibility, Title VI of the Civil Rights Act of 1964 (Title VI), Executive Order 13166 (Limited English Proficiency), and related operating policies and procedures. In addition, Metro must ensure that its many subrecipients of federal funding are in compliance with the ADA, Title VI, and Executive Order 13166.

#### **BACKGROUND**

On August 4, 2011, Metro agreed to a Settlement Order as a result of a lawsuit filed by wheelchair patron Cathy Gaddy and five other wheelchair plaintiffs, who alleged that Metro failed to meet the requirements of the American with Disabilities Act. The Gaddy Settlement Order included provisions that significantly improved Metro's compliance with the ADA, including the implementation of an enhanced Mystery Rider Program to monitor ADA compliance and identify areas for improvement.

The topics observed through MRP include wheelchair boardings and pass-ups, compliance with procedures for wheelchair securement, proper wheelchair securement, the offering of lap and shoulder belts, and treatment of customers with disabilities.

The Mystery Rider Program also monitors several other areas related to accessibility, LEP, safety,

and customer service.

The terms of the Settlement Order were scheduled to end in 2016, however, in March 2015, the Board approved the continuation of the settlement terms to ensure that Metro continues to fulfill the intent of the Gaddy Settlement Order and maintains a high level of service for people with disabilities.

## **DISCUSSION**

The purpose of the Mystery Rider Program (MRP) is to monitor, test and report on Metro fixed route bus services, (including Metro's contracted bus services) for compliance with the requirements of the ADA, Title VI of the Civil Rights Act of 1964 and additional accessibility-related codes, policies, and procedures. Metro is also required to ensure subrecipients of federal funding distributed by Metro are compliant with required regulations and policies.

### Accessibility / ADA MRP Observations

On a quarterly basis, Metro requires up to 600 observations of Metro bus services, 120 observations of contracted bus services, and 30 of Metro Micro's services for ADA and accessibility compliance. Metro utilizes quarterly observations to analyze statistical data, track trends and patterns, identify deficiencies, and generate reports.

In addition to these observations, up to 120 "special rides" (not to exceed 60 Metro special rides and 60 subrecipient special rides) will be required of the Mystery Rider contractor each quarter. Special rides are as-needed observations of Metro's bus and Metro Micro services, and services Metro Subrecipients providing fixed route transit services.

### Limited English Proficiency (LEP) Observations

To ensure that Metro and its subrecipients are in compliance with the Limited English Proficiency (LEP) Policy under Title VI of the Civil Rights Act of 1964 and Executive Order 13166, Metro requires up to 120 quarterly in-person and phone contact observations of Metro employees through its system. The observations and contacts monitor and evaluate the compliance of Metro employees who have contact with the public with the Language Assistance Program of Metro as mandated by Title VI and Executive Order 13166. This will include evaluating Metro's bus services, contracted bus services and other frontline employees having direct contact with customers including call center personnel.

In addition to these observations and contacts made of Metro employees and services, up to an additional 90 in-person observations and 30 telephone contacts of Metro's subrecipients will be required of the Contractor each quarter.

## **DETERMINATION OF SAFETY IMPACT**

MRP will help ensure that customers with disabilities and other needs will receive the safest and most accessible service from Metro, its contracted lines, and its subrecipients. MRP will use the data gathered from the accessibility and ADA observations to address potential accessibility-related maintenance and operations issues and will help in improving safety for customers who ride the system.

## **FINANCIAL IMPACT**

Funding of \$259,382 for this service is included in the FY23 budget in Cost Center 2413, Office of Civil Rights, Racial Equity, and Inclusion, under project number 100002, and project name Mystery Rider Program.

Since this is a multi-year contract/project, the Cost Center Manager and deputy chief Civil Rights Programs will be accountable for budgeting the cost in future years, including any options exercised.

### **Impact to Budget**

The source of funds is Prop A, Prop C and TDA Administration, which is not eligible for bus and rail operating and capital uses.

## **EQUITY PLATFORM**

The solicitation was open to Metro certified small businesses. The recommended firm is a Metro certified small business firm. The recommended firm made a 100% SBE commitment and is meeting the Small Business Prime Set-Aside requirement established for this project. The MRP specifically monitors service delivery to marginalized groups such as customers with disabilities, customers with LEP, low-income riders, and older adults. The contract requirements enable Metro to go above and beyond to ensure that not only federal requirements are being met, but that Metro is identifying areas of improvement for vulnerable and marginalized riders. There are no negative equity impacts as a result of the proposed action.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports strategic plan goals #2 (Deliver outstanding trip experiences for all users of the transportation system) and #3 (Enhance communities and lives through mobility and access to opportunity). The Mystery Rider Program will ensure that Metro is providing the highest level of service for vulnerable populations, particularly for customers with disabilities, older adults, and those with limited English proficiency.

## **ALTERNATIVES CONSIDERED**

One alternative is to reduce the scope of work to encompass mystery rides for solely Metro's fixed route system; however, this alternative is not recommended as Metro's contracted lines and subrecipients are also required to adhere to the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964. ADA regulations and California state law guarantee the civil rights of people with disabilities to receive equal access to all public transportation services. These laws require that transit services and vehicles be readily accessible to, and usable by, people with a wide range of disabilities and who may use aids such as wheelchairs, attendants, service animals, and respirators or portable oxygen supplies. The Mystery Rider Program is a vital tool in monitoring the adherence to the aforementioned statutes; improving Metro's services, contracted services, and subrecipients; and ensuring compliance with federal regulations.

### **NEXT STEPS**

Upon approval by the Board, staff will execute Contract No. PS43587000 with Mobility Advancement Group to provide mystery rider observations effective August 1, 2022.

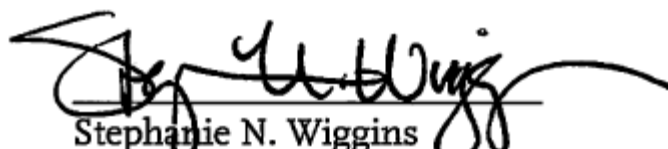
### **ATTACHMENTS**

Attachment A - Procurement Summary

Attachment B - DEOD Summary

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Stephanie N. Wiggins  
Chief Executive Officer

## PROCUREMENT SUMMARY

### MYSTERY RIDER PROGRAM (ADA/LEP)/PS43587000

1.	<b>Contract Number:</b> PS43587000	
2.	<b>Recommended Vendor:</b> Mobility Advancement Group	
3.	<b>Type of Procurement (check one):</b> <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	<b>Procurement Dates:</b>	
	<b>A. Issued:</b> February 17, 2022	
	<b>B. Advertised/Publicized:</b> February 18, 2022	
	<b>C. Pre-Proposal Conference:</b> February 24, 2022	
	<b>D. Proposals Due:</b> March 23, 2022	
	<b>E. Pre-Qualification Completed:</b> Pending	
	<b>F. Conflict of Interest Form Submitted to Ethics:</b> March 24, 2022	
	<b>G. Protest Period End Date:</b> June 20, 2022	
5.	<b>Solicitations Picked up/Downloaded:</b> 14	<b>Bids/Proposals Received:</b> 1
6.	<b>Contract Administrator:</b> Steven Dominguez	<b>Telephone Number:</b> (213) 418-3158
7.	<b>Project Manager:</b> Paula Guevara	<b>Telephone Number:</b> (213) 922-7495

#### **A. Procurement Background**

This Board Action is to approve the award of Contract No. PS43587000 to Mobility Advancement Group to provide mystery rider observations. Board approval of contract award is subject to resolution of all properly submitted protest(s).

On February 17, 2022, Request for Proposals (RFP) No. PS43587 was issued as a competitively negotiated procurement in accordance with Metro's Acquisition Policy and the contract type is a firm-fixed unit rate. The RFP was open only to Metro Certified Small Business firms.

No amendments were issued during the solicitation phase of this RFP.

The solicitation was available for download from Metro's website. Advertisements were placed in the Los Angeles Daily News, LA Sentinel, Chinese Daily News, and La Opinion to notify potential proposers of this solicitation. Metro also notified potential proposers on Metro's vendor database based on applicable North American Industry Classification System (NAICS) codes.

A pre-proposal conference was held on February 24, 2022 and was attended by three (3) participants representing two (2) firms.

Fourteen (14) firms downloaded the RFP and were included on Metro's planholders' list. There were seven (7) questions received and responses were provided prior to the proposal due date. Only one (1) proposal was received on March 23, 2022.

Since only one proposal was received, Metro staff canvassed all firms on the planholders' list to determine why no other bids were received. Of the 14 firms canvassed, only two (2) firms responded. The following is a summary of the market survey:

1. Potential proposer is not a Metro certified SBE firm and is not able to commit resources for the contract.
2. Potential proposer indicated that it is currently experiencing challenges to find and maintain qualified personnel to perform the work and has some safety concerns regarding public transit.

The planholders' list includes seven (7) Metro certified SBE firms and seven (7) firms that provide services that are unrelated to the requested services.

## **B. Evaluation of Proposal**

A Proposal Evaluation Team (PET) consisting of staff from Transportation Operations and Civil Rights Programs Departments was convened and conducted a comprehensive technical evaluation of the proposal received.

The proposal was evaluated based on the following evaluation criteria stated in the RFP:

Phase I Evaluation – Minimum Qualification Review: This is a pass/fail criteria. The criteria focused on the proposer's experience in implementing and managing Mystery Rider programs for publicly funded bus and/or rail services.

The PET determined that the proposal received met all minimum qualification requirements and proceeded with Phase II- Technical Evaluation based on the following criteria and weights:

- |                                                  |            |
|--------------------------------------------------|------------|
| • Qualification and Experience of the Firm/Team  | 20 percent |
| • Qualifications and Experience of Key Personnel | 20 percent |
| • Understanding of Work Requirements             | 40 Percent |
| • Price                                          | 20 Percent |

The evaluation criteria are appropriate and consistent with criteria developed for similar services. Several factors were considered in developing these weights, giving the greatest importance to the understanding of work requirements.

Evaluations were conducted from March 24, 2022, through April 21, 2022. After the evaluation, the PET determined that the technical proposal received from Mobility Advancement Group addressed the RFP requirements and that its personnel are qualified and experienced to perform the required services. Based on a thorough

evaluation of the proposal, the PET determined Mobility Advancement Group to be technically qualified to perform the work.

The following is a summary of the PET scores:

	Firm	Average Score	Factor Weight	Weighted Average Score	Rank
	<b>Mobility Advancement Group</b>				
<b>1</b>	Qualification and Experience of the Firm/Team	86.70	20.00%	17.34	
<b>2</b>	Qualifications and Experience of Key Personnel	86.65	20.00%	17.33	
<b>3</b>	Understanding of Work Requirements	88.33	40.00%	35.33	
<b>4</b>	Price	100.00	20.00%	20.00	
<b>5</b>	<b>Total</b>		<b>100.00%</b>	<b>90.00</b>	<b>1</b>

### **C. Cost/Price Analysis**

The recommended price is based on fully burdened rates that have been determined to be fair and reasonable based on the independent cost estimate (ICE), price analysis, and technical evaluation. Proposed rates considered recent changes in the cost of labor for businesses and are consistent with the current Employment Cost Index for private industry workers under the service occupation group.

	Proposer Name	Proposal Amount	Metro ICE	Award Amount
1	Mobility Advancement Group	\$1,465,308	\$1,377,096	\$1,465,308

### **D. Background on Recommended Contractor**

The recommended firm, Mobility Advancement Group (Mobility), located in Altadena, CA, has been providing transportation and transit consulting and administrative services since 1996. Other services provided include Operations Planning, Financial Planning, Transit Management, and Grants Management. Public sector clients include transit agencies in Southern California such as the Los Angeles Department of Transportation (LADOT), Norwalk Transit, Palos Verdes Peninsula Transit Authority, and the Los Angeles County Metropolitan Transportation Authority.

Mobility is a Metro-certified small business firm. It has been providing Mystery Rider observations to Metro since 2017 and its performance has been satisfactory.

Mobility's subcontractor, Temps, Inc. is a Metro certified small business enterprise and has worked with Mobility in providing temporary workers for transit consulting projects for almost 20 years.

The proposed project manager has more than 25 years of experience overseeing transit consulting projects. He is the project manager of the current contract.



## DEOD SUMMARY

## MYSTERY RIDER PROGRAM (ADA/LEP) / PS43587000

**A. Small Business Participation**

Effective June 2, 2014, per Metro's Board-approved policy, competitive acquisitions with three or more Small Business Enterprise (SBE) certified firms within the specified North American Industry Classification System (NAICS) as identified for the project scope shall constitute a Small Business Set-Aside procurement. Accordingly, the Contract Administrator advanced the solicitation, including posting the solicitation on Metro's website, advertising, and notifying certified small businesses as identified by NAICS code(s) that this solicitation was open to **SBE Certified Small Businesses Only**.

Mobility Advancement Group, an SBE Prime, is performing 30% of the work with its own workforce.

**SMALL BUSINESS SET-ASIDE**

	<b>SBE Prime Contractor</b>	<b>SBE % Committed</b>
1.	Mobility Advancement Group (Prime)	30%
2.	Temps, Inc. (Subcontractor)	70%
<b>Total Commitment</b>		100%

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract.

**C. Prevailing Wage Applicability**

Prevailing wage is not applicable to this contract.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. PLA/CCP is applicable only to construction contracts that have a construction related value in excess of \$2.5 million.