



Metropolitan Transportation Commission

Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105

Meeting Agenda

Operations Committee

Committee Members:

Dave Cortese, Chair Damon Connolly, Vice Chair

*Anne W Halsted, Sam Liccardo, Jake Mackenzie, David Rabbitt,
Warren Slocum, James P. Spering*

Non-Voting Members: Dorene M. Giacomini and Jimmy Stracner

Friday, March 13, 2020

9:30 AM

Board Room - 1st Floor

1. Roll Call / Confirm Quorum

Quorum: A quorum of this committee shall be a majority of its regular non-ex-officio voting members (5).

2. Pledge of Allegiance

3. Compensation Announcement – Clerk of the Committee

4. Consent Calendar

- 4a. [20-0318](#) Minutes of the February 14, 2020 Meeting
- Action: Committee Approval
- Attachments: [4a OPS Minutes_Feb 2020.pdf](#)
-
- 4b. [20-0320](#) Contract Amendment - Transportation Engineering and Planning Services:
Corridor and Incident Management Strategy Implementation Support:
Circlepoint (\$95,000)
- Action: Committee Approval
- Presenter: Sarah Burnworth
- Attachments: [4b Circlepoint Contract Amendment.pdf](#)
-
- 4c. [20-0321](#) Contract - Bay Bridge Forward - Virtual Parking Payment Services for
Commuter Parking Facilities: Passport Labs, Inc. (\$400,000)
- Action: Committee Approval
- Presenter: Stefanie Hom
- Attachments: [4c CPI Virtual Parking Payment Services Contract.pdf](#)

- 4d. [20-0325](#) Second Quarter Fiscal Year (FY) 2019-20 MTC Service Authority for Freeways and Expressways (SAFE) Financial Statements

Action: Information

Presenter: Raymond Woo

Attachments: [4d 2nd Qtr SAFE Financial Statements FY20.pdf](#)

5. Approval

- 5a. [20-0363](#) SAFE Resolution No. 067 - Adoption of the Updated Small Business Enterprise (SBE) Program

A request to refer SAFE Resolution No. 067, the Service Authority for Freeways and Expressways (SAFE) Small Business Enterprise (SBE) Program, which updates and combines the SBE Program for Civil Construction and the Pilot SBE Program for Professional Services, to the Commission for approval.

Action: Refer to Service Authority for Freeways and Expressways for Approval

Presenter: Edward Phillips

Attachments: [5a SAFE SBE Program OPS.pdf](#)

6. Public Comment / Other Business

7. Adjournment / Next Meeting

The next meeting of the Operations Committee will be Friday, April 10, 2020 at 9:30 a.m. at the Bay Area Metro Center, 375 Beale Street, San Francisco, CA.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章: MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日內告知，以滿足您的要求。

Acceso y el Titulo VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.

MTC's Chair and Vice-Chair are ex-officio voting members of all standing Committees.



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0318 **Version:** 1 **Name:**
Type: Minutes **Status:** Consent
File created: 2/4/2020 **In control:** Operations Committee
On agenda: 3/13/2020 **Final action:**
Title: Minutes of the February 14, 2020 Meeting
Sponsors:
Indexes:
Code sections:
Attachments: [4a OPS Minutes_Feb 2020.pdf](#)

Date	Ver.	Action By	Action	Result
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Subject:
Minutes of the February 14, 2020 Meeting

Recommended Action:
Committee Approval

Attachments:



Metropolitan Transportation Commission

Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105

Meeting Minutes - Draft

Operations Committee

Committee Members:

Dave Cortese, Chair Damon Connolly, Vice Chair

*Anne W Halsted, Sam Liccardo, Jake Mackenzie, David Rabbitt,
Warren Slocum, James P. Spering*

Non-Voting Members: Dorene M. Giacopini and Jimmy Stracner

Friday, February 14, 2020

9:30 AM

Board Room - 1st Floor

1. Roll Call / Confirm Quorum

Present: 5 - Vice Chair Connolly, Chair Cortese, Commissioner Halsted, Commissioner Mackenzie and Commissioner Spering

Absent: 3 - Commissioner Liccardo, Commissioner Rabbitt and Commissioner Slocum

Non-Voting Member Present: Commissioner Giacopini

Non-Voting Member Absent: Commissioner Stracner

Ex Officio Voting Members Present: Commission Chair Haggerty and
Commission Vice Chair Pedroza

2. Pledge of Allegiance

3. Compensation Announcement – Clerk of the Committee

Commissioner Chair Haggerty was deputized to act as ex-officio voting member of the Committee in the absence of a quorum.

4. Consent Calendar

Approval of the Consent Calendar

**Upon the motion by Vice Chair Connolly and second by Commissioner Spering,
the Consent Calendar was unanimously approved by the following vote:**

Aye: 5 - Vice Chair Connolly, Chair Cortese, Commissioner Mackenzie, Commissioner Spering and Haggerty

Absent: 4 - Commissioner Halsted, Commissioner Liccardo, Commissioner Rabbitt and
Commissioner Slocum

4a. [20-0135](#) Minutes of the January 10, 2020 Meeting

Action: Committee Approval

Attachments: [4a OPS Minutes Jan 2020.pdf](#)

- 4b.** [20-0136](#) Contract Change Order Amendment - Clipper® Program Statement on Standards for Attestation Engagement No. 18 (SSAE 18) Audit: Cubic Transportation Systems, Inc. (Cubic) (\$200,000)

Action: Committee Approval

Presenter: David Weir

Attachments: [4b_SSAE 18 Audit for FY 2019-20.pdf](#)

Commissioner Halsted arrived after the approval of the Consent Calendar.

5. Public Comment / Other Business

6. Adjournment / Next Meeting

The next meeting of the Operations Committee will be Friday, March 13, 2020 at 9:30 a.m. at the Bay Area Metro Center, 375 Beale Street, San Francisco, CA.



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 20-0320 **Version:** 1 **Name:**

Type: Contract **Status:** Consent

File created: 2/4/2020 **In control:** Operations Committee

On agenda: 3/13/2020 **Final action:**

Title: Contract Amendment - Transportation Engineering and Planning Services: Corridor and Incident Management Strategy Implementation Support: Circlepoint (\$95,000)

Sponsors:

Indexes:

Code sections:

Attachments: [4b Circlepoint Contract Amendment.pdf](#)

Date	Ver.	Action By	Action	Result
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Subject:
Contract Amendment - Transportation Engineering and Planning Services: Corridor and Incident Management Strategy Implementation Support: Circlepoint (\$95,000)

Presenter:
Sarah Burnworth

Recommended Action:
Committee Approval

Attachments:

Metropolitan Transportation Commission Operations Committee

March 13, 2020

Agenda Item 4b

Contract Amendment – Transportation Engineering and Planning Services: Corridor and Incident Management Strategy Implementation Support: Circlepoint (\$95,000)

Subject: Contract Amendment – Transportation Engineering and Planning Services: Circlepoint (\$95,000).

Background: The I-880 ICM North Segment Project is a collaborative effort led by MTC, with California Department of Transportation (Caltrans) District 4, City of Oakland, City of San Leandro, and Alameda-Contra Costa Transit District (AC Transit). The project aims to minimize the burden on local streets of incidents occurring along I-880 by installing Intelligent Transportation System (ITS) equipment on key arterial streets to redirect motorists safely and efficiently back onto I-880. Stakeholders identified this project for initial deployment as part of an overall ICM approach to improve mobility, accessibility, and safety along the I-880 corridor.

In June 2016, the Operations Committee approved a competitively-procured, pre-qualified panel of consultants to provide on-call transportation engineering and planning services under various service categories through June 30, 2019, with an option on the part of MTC to extend through June 30, 2021.

In November 2017, Circlepoint was awarded a \$150,000 contract by direct selection to assist with general planning and public outreach support for the I-880 Integrated Corridor Management (ICM) North Segment Project. Circlepoint was selected because of their specialized knowledge and expertise with the specific issues and communication needs along the I-880 corridor and the complexities involved with implementing Intelligent Transportation Systems (ITS) to enhance operations and agency coordination between jurisdictions. Circlepoint provides key continuity and efficiency in communications with project stakeholders, including Caltrans, City of Oakland, City of San Leandro, Alameda-Contra Costa Transit District, MTC, and others.

In March 2018, \$49,000 was added to the contract under Executive Director Authority to fund Circlepoint's ongoing support. Since then, Circlepoint has continued to support the I-880 ICM North Segment Project by conducting planning and outreach for the Bay Area Traffic Incident Management Task Force, which focuses on interagency communication and cooperation (through the I-880 ICM and other projects) and the safe and quick clearance of freeway traffic incidents. Circlepoint's insights

have proven valuable to advance these efforts and engage key stakeholders to improve project coordination.

The scope of work to be completed under the proposed contract amendment includes ongoing planning and outreach support through June 30, 2021 for the Bay Area Traffic Incident Management Task Force to support implementation of the I-880 ICM North Segment project and other incident management related projects and strategies.

Circlepoint is neither a small business enterprise nor a disadvantaged business enterprise and has no subcontractors.

Issues:

None identified.

Recommendation:

Staff recommends that this Committee authorize the Executive Director or designee to negotiate and enter into a contract amendment with Circlepoint to provide Transportation Engineering and Planning Services, in an amount not to exceed \$95,000.


Therese W. McMillan

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Contract Amendment

Work Item No.:	1235
Consultant:	Circlepoint Oakland, CA
Work Project Title:	Corridor and Incident Management Strategy Implementation Support
Purpose of Project:	Conduct planning and outreach for Bay Area Traffic Incident Management projects
Brief Scope of Work:	Provide general planning and public outreach support for the Bay Area Traffic Incident Management Task Force to support implementation of the I-880 ICM North Segment project and other incident management related projects and strategies.
Project Cost Not to Exceed:	\$95,000 (this Amendment) Total contract amount before this amendment: \$199,000 Total approved contract amount after this amendment: \$294,000
Funding Source:	SAFE
Fiscal Impact:	Funding is included in the FY 2019-20 SAFE Budget
Motion by Committee:	That the Executive Director or designee is authorized to negotiate and enter into a contract amendment with Circlepoint to provide on-call transportation engineering and planning services for the purposes described above and in the Operations Committee Summary Sheet dated March 13, 2020 and that the Chief Financial Officer is authorized to set aside funds for such contract amendment in the amount set forth above.
Operations Committee:	<hr/> Dave Cortese, Chair
Approved:	March 13, 2020



Metropolitan Transportation Commission

375 Beale Street, Suite 800
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Legislation Details (With Text)

File #: 20-0321 **Version:** 1 **Name:**
Type: Contract **Status:** Consent
File created: 2/4/2020 **In control:** Operations Committee
On agenda: 3/13/2020 **Final action:**
Title: Contract - Bay Bridge Forward - Virtual Parking Payment Services for Commuter Parking Facilities:
Passport Labs, Inc. (\$400,000)

Sponsors:

Indexes:

Code sections:

Attachments: [4c CPI Virtual Parking Payment Services Contract.pdf](#)

Date	Ver.	Action By	Action	Result
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Subject:

Contract - Bay Bridge Forward - Virtual Parking Payment Services for Commuter Parking Facilities:
Passport Labs, Inc. (\$400,000)

Presenter:

Stefanie Hom

Recommended Action:

Committee Approval

Attachments:

Metropolitan Transportation Commission Operations Committee

March 13, 2020

Agenda Item 4c

Contract – Bay Bridge Forward - Virtual Parking Payment Services for Commuter Parking Facilities: Passport Labs, Inc. (\$400,000)

- Subject:** Contract to provide virtual (mobile and web) parking payment services for the commuter parking lots at Interstate-80 (I-80)/Buchanan St. in Albany, and Interstate-880 (I-880)/Fruitvale Ave., and I-880/High St. in Oakland.
- Background:** In December 2016, the Commission approved \$40 million in funding for Bay Bridge Forward (Resolution MTC Resolution 3801 Revised and No. 4202 Revised). Bay Bridge Forward consists of a suite of operational, transit and shared mobility improvements to move more people into fewer cars across the San Francisco-Oakland Bay Bridge, which is the most congested corridor in the region.
- As part of the Bay Bridge Forward-Commuter Parking Initiative, MTC and the California Department of Transportation (Caltrans) entered into a Master Operation and Maintenance Agreement for commuter parking/transit hub facilities within State highway right of way in November 2017. This agreement authorizes MTC to plan, design, construct, operate and maintain commuter parking facilities to provide more opportunities for commuters to take transit or share rides in carpools/vanpools. To that end, MTC will soon be completing construction of first three pilot commuter parking facilities (totaling approximately 800 spaces) at I-80/Buchanan Avenue in Albany, and at I-880/High Street and I-880/Fruitvale Avenue in Oakland, which will include new bus stops, loading areas for carpools/ shuttles, bicycle storage, electric vehicle chargers, and new or extended AC Transit express bus services.
- The lots will offer daily and monthly permits, including monthly permits that can be purchased by employers for their employees. To offer users a quick and convenient way to pay for parking, virtual payment services will be provided – either through a mobile app or on the web. For those who do not have the capability of paying through these channels, an off-site cash payment option will be offered.
- On October 29, 2019, MTC issued a Request for Proposal (RFP) for virtual parking payment services for the commuter parking facilities, for a term of three years, plus an option to extend for up to another three years. On December 18, MTC received proposals from two vendors: Passport Labs, Inc. (Passport) and PayByPhone. A panel comprised of staff from MTC and San Francisco Municipal Transportation Agency (SFMTA) reviewed the proposals and invited both vendors to participate in interviews/discussions on January 14, 2019 to obtain clarification and more information about their proposals. Based on its evaluation of the proposals, the in-person interviews/discussions, and answers to post-interviews/discussions follow-up questions, the panel scored Passport higher than PayByPhone. PayByPhone scored lower in part because it was unable to perform some elements of the Scope of Work described in the RFP, including, as an example, the functionality of auto renewal of monthly permits.

In addition to providing a work plan that demonstrated its understanding of the services being requested, Passport's virtual parking payment services conform with the Scope of Work described in the RFP, including the ability to provide mobile and web-based payment applications that can manage daily and monthly parking permits. Passport currently serves over 1,000 clients across North America, including the Santa Clara Valley Transportation Authority and SolTrans in the Bay Area.

The proposed contract action would fund the initial three-year term of the contract. Passport is neither a small business nor a disadvantaged business enterprise and has no subcontractors.

Issues: None identified.

Recommendation: Staff recommends that the Operations Committee authorize the Executive Director or designee to negotiate and enter into a contract with Passport Labs, Inc. in an amount not to exceed \$400,000 for the above-described work.


Therese W. McMillan

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Contract

Work Item No.:	1237
Consultant:	Passport Labs, Inc. Charlotte, NC
Work Project Title:	Virtual Parking Payment Services for Commuter Parking Facilities
Purpose of Project:	To provide virtual parking payment services (via a mobile app and website) for the three commuter parking facilities at I-80/Buchanan Avenue in Albany, and at I-880/High Street and I-880/Fruitvale Avenue in Oakland.
Brief Scope of Work:	Provide: 1) a mobile app and website to enable users of the commuter parking facilities to pay for daily and monthly permits; 2) training and ongoing support; 3) customer service; and 4) client reports on operations and usage.
Project Cost Not to Exceed:	\$400,000
Funding Source:	MTC Exchange Program
Fiscal Impact:	Funding is included in the FY 2019-20 MTC Budget
Motion by Committee:	That the Executive Director or designee is authorized to negotiate and enter into a contract with Passport Labs, Inc. for virtual parking payment services for the commuter parking facilities described above and in the Operations Committee Summary Sheet dated March 13, 2020 and that the Chief Financial Officer is authorized to set aside \$400,000 for such contract.
Operations Committee:	<hr/> Dave Cortese, Chair
Approved:	March 13, 2020



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #:	20-0325	Version:	1	Name:	
Type:	Report	Status:		Consent	
File created:	2/4/2020	In control:		Operations Committee	
On agenda:	3/13/2020	Final action:			
Title:	Second Quarter Fiscal Year (FY) 2019-20 MTC Service Authority for Freeways and Expressways (SAFE) Financial Statements				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	4d 2nd Qtr SAFE Financial Statements FY20.pdf				

Date	Ver.	Action By	Action	Result
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Subject:

Second Quarter Fiscal Year (FY) 2019-20 MTC Service Authority for Freeways and Expressways (SAFE) Financial Statements

Presenter:

Raymond Woo

Recommended Action:

Information

Attachments:

**Metropolitan Transportation Commission
Service Authority for Freeways and Expressways
Operations Committee**

March 13, 2020

Agenda Item 4d

**Second Quarter Fiscal Year (FY) 2019-20 MTC Service Authority for Freeways and Expressways
(SAFE) Financial Statements**

Subject: Attached are the MTC SAFE financial statements for the FY 2019-20 second quarter ended December 31, 2019. Major financial highlights include:

SAFE Program

Total revenues of \$3.4 million are slightly below budget at 49%, compared to the 50% of the budget year expired. Total DMV registration fees made up 96% of the total revenues for the program.

Year-to-date expenses of \$960,496 for the SAFE Program are below budget at 30%. Activities will ramp up later in the year as services are rendered for the encumbered contracts.

Freeway Service Patrol (FSP) Program

Total expenses for the second quarter at \$6.5 million are 37% of the expenses budget for the FSP Program. Out of the \$11 million budget balance, \$10.1 million is encumbered for various service contracts. Activities are expected to ramp up later in the year as services are rendered for those encumbered contracts.

Tow related expenses are \$6.2 million as of the end of the second quarter which is 95% of the total reported expenditure.

Capital Programs

The total life-to-date budget for the Capital Program is \$22.3 million. As of the end of the second quarter of FY 2019-20, life-to-date expenses for those programs plus encumbrances total \$18.5 million.

If you have any questions about this report, please contact Brian Mayhew at (415) 778-6730.

Recommendation: None. This item is provided as information only.

Attachments: Attachment A: Second Quarter SAFE Financial Statements


Therese W. McMillan

MTC Service Authority for Freeways and Expressways
Operating Budget
As of December 2019

	1	2	3	4	5	6
	FY 2019-20 Budget	Actual YTD	Budget Balance Over/(Under)	% of Budget	% of Budget year Expired	Encumbrances
<u>SAFE Program</u>						
REVENUE:						
Vehicle Registration Fees	6,600,000	3,291,828	(3,308,172)	49.9%	50.0%	-
Interest Income	400,000	137,244	(262,756)	34.3%	50.0%	-
Total Revenue	7,000,000	3,429,072	(3,570,928)	49.0%	50.0%	-
EXPENSE:						
Salaries and Benefits	651,700	331,832	(319,868)	50.9%	50.0%	-
General Operations	1,119,560	412,562	(706,998)	36.9%	50.0%	14,093
Consultant Services	500,000	68,219	(431,781)	13.6%	50.0%	249,497
Callbox Operating Expense	935,000	147,883	(787,117)	15.8%	50.0%	439,804
Total Expense	3,206,260	960,496	(2,245,764)	30.0%	50.0%	703,394
OPERATING/CAPITAL TRANSFERS In (Out):						
MTC	(1,921,000)	(218,795)	(1,702,205)	11.4%	50.0%	-
FSP	(3,822,500)	(1,532,077)	(2,290,423)	40.1%	50.0%	-
Capital	(1,479,000)	(1,479,000)	-	100.0%	50.0%	-
Operating Reserve	3,428,760	761,296	2,667,464	22.2%	50.0%	-
Total Transfers	(3,793,740)	(2,468,576)	(1,325,164)	65.1%	50.0%	-
NET Operating Revenue (Exp)	-	-	-			
	1	2	3	4	5	6
	FY 2019-20 Budget	Actual YTD	Budget Balance Over/(Under)	% of Budget (col 2/1)	% of Budget year Expired	Encumbrances
<u>FSP Program</u>						
REVENUE:						
Local Assistance Program (LAP)	6,650,000	2,776,712	(3,873,288)	41.8%	50.0%	
SB1	7,000,000	2,216,274	(4,783,726)	31.7%	50.0%	
Traffic Mitigation Program	100,000	-	(100,000)	0.0%	50.0%	
Total Revenue	13,750,000	4,992,986	(8,757,014)	36.3%	50.0%	
EXPENSE:						
Salaries and Benefits	314,000	126,197	(187,803)	40.2%	50.0%	-
General Operations	238,500	119,295	(119,205)	50.0%	50.0%	1,000
Consultant Services	150,000	13,888	(136,112)	9.3%	50.0%	86,112
Freeway Serv Operating Expense	1,370,000	101,464	(1,268,536)	7.4%	50.0%	1,061,064
FSP Tow Beat Expense	15,500,000	6,164,219	(9,335,781)	39.8%	50.0%	8,941,443
Total Expense	17,572,500	6,525,063	(11,047,437)	37.1%	50.0%	10,089,619
TRANSFERS In (Out):						
Transfers from Callbox	3,822,500	1,532,077	(2,290,423)	40.1%	50.0%	-
Total Transfers	3,822,500	1,532,077	(2,290,423)	40.1%	50.0%	-
Ending Balance	-	-	-			

MTC Service Authority for Freeways and Expressways
Capital Budget
As of December 2019

	1	2	3	4	5
<u>Capital Program</u>	LTD Budget			Project Balance	Actual LTD
	Thru FY 2019-20	Actual LTD	Encumbrance	LTD	plus Encumb
<u>Active Programs</u>					
REVENUE:					
1. CMAQ	6,858,251	6,684,650	-	173,601	6,684,650
2. STP	1,556,260	1,131,161	-	425,099	1,131,161
Total Revenue	8,414,511	7,815,811	-	598,700	7,815,811
EXPENSE:					
6303-Bay Area Camera Upgrade	9,043,583	8,963,108	10,672	69,803	8,973,780
6306-Data - AVL telecom system update	3,826,260	2,378,964	30,783	1,416,513	2,409,747
6314-Callbox Site Mitigation	2,744,331	1,373,812	76,359	1,294,160	1,450,171
6318-Connected Vehicles & Telematic	5,700,000	5,700,000	-	-	5,700,000
6319-Active OPS Mgt Program	1,000,000	-	20,000	980,000	20,000
Total Expense	22,314,174	18,415,884	137,814	3,760,476	18,553,698
TRANSFERS In/(Out):					
SAFE	13,899,663	13,899,663	-	-	13,899,663
Total Transfer In/(Out)	13,899,663	13,899,663	-	-	13,899,663
Ending Balance	-	3,299,590	(137,814)	-	3,161,776



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #:	20-0363	Version:	1	Name:	
Type:	Resolution	Status:		Authority Approval	
File created:	2/19/2020	In control:		Operations Committee	
On agenda:	3/13/2020	Final action:			
Title:	SAFE Resolution No. 067 - Adoption of the Updated Small Business Enterprise (SBE) Program				
	A request to refer SAFE Resolution No. 067, the Service Authority for Freeways and Expressways (SAFE) Small Business Enterprise (SBE) Program, which updates and combines the SBE Program for Civil Construction and the Pilot SBE Program for Professional Services, to the Commission for approval.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	5a SAFE SBE Program OPS.pdf				

Date	Ver.	Action By	Action	Result
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Subject:

SAFE Resolution No. 067 - Adoption of the Updated Small Business Enterprise (SBE) Program

A request to refer SAFE Resolution No. 067, the Service Authority for Freeways and Expressways (SAFE) Small Business Enterprise (SBE) Program, which updates and combines the SBE Program for Civil Construction and the Pilot SBE Program for Professional Services, to the Commission for approval.

Presenter:

Edward Phillips

Recommended Action:

Refer to Service Authority for Freeways and Expressways for Approval

Attachments:

Metropolitan Transportation Commission Operations Committee

March 13, 2020

Agenda Item 5a

SAFE Resolution No. 067 – Adoption of the Updated Small Business Enterprise (SBE) Program

Subject: A request to refer SAFE Resolution No. 067, the Service Authority for Freeways and Expressways (SAFE) Small Business Enterprise (SBE) Program, which updates and combines the SBE Program for Civil Construction and the Pilot SBE Program for Professional Services, to the Commission for approval.

Background: Currently SAFE has two SBE Programs: an adopted Construction Project SBE Program (adopted in October of 2015 under Resolution No. 061, Revised) and a Professional Services SBE Pilot Program (approved by the MTC Administration Committee in January of 2017).

The current SBE Programs:

- Apply to non-federally funded and non-Architectural & Engineering (A&E) contracts with a budget in excess of \$25,000;
- Only accept firms that are certified by the State of California as SBEs through the Department of General Services (DGS); and
- Allow for a Bid/Proposal Evaluation Preference discount of 5% or 5 points to the total amount of a bid/proposal submitted by a Bidder/Proposer for a contract solely for the purpose of bid/proposal comparisons when determining the lowest responsive and responsible bid/proposal. The Bid/Proposal Evaluation Preference applies when a Proposer meeting specifications is a certified SBE performing at least 40% of the work, or when a non-SBE Proposer is subcontracting at least 40% of the work to an SBE.

The objectives of the proposed SBE Program include:

- To increase the number of certified SBEs participating in non-federally funded and non-A&E contracts;
- To increase overall competition on non-federally-funded and non-A&E contracts potentially allowing for the completion of projects at a lower overall cost;
- To create a level playing field on which SBEs can compete fairly on non-federally funded and non-A&E contracts;
- To ensure that only SBE firms meeting the Program's eligibility requirements are eligible for the Bid/Proposal Evaluation Preference allowed under the SBE Program;
- To help remove barriers to the participation of SBEs in non-federally funded and non-A&E contracts; and
- To identify business enterprises that are qualified as SBEs and are qualified to provide SAFE with required materials, equipment, supplies and services.

To further the objectives of the SBE Programs, the proposed SBE Program being submitted to this Committee for referral to the Commission combines the two current SBE programs into one SBE program covering all non-federally funded and non-A&E procurements, broadens the acceptable certifications and expands the SBE Preference into a two-tiered program. The proposed SBE Program will create one comprehensive SBE program that would cast a wider net to SBE firms in the nine county Bay Area and would increase the number of contracts with the SBE Preference being applied.

The proposed SBE Program:

- Applies to all non-federally funded and non-A&E contracts with a budget in excess of \$25,000;
- Broadens the acceptable certifications. To be eligible for the Bid/Evaluation Preference allowed under the SBE Program, firms (prime Contractor or Subconsultant/Subcontractor/Vendor) must be certified under any of the programs outlined below:
 - California Certified Small Business as certified by the California Department of General Services (DGS)
 - A Disadvantaged Business Enterprise (DBE) as certified by the California Unified Certification Program (CUCP)
 - City and County of San Francisco Local Business Enterprise (LBE) as certified by the Contract Monitoring Division (CMD)
 - Alameda County Small Local and Emerging Business (SLEB) program as certified by the Alameda County SLEB Certification Unit; or
 - LBE/MBE/SBE/WBE certification from a formal certifying agency in the nine county Bay Area, provided that the certification can be verified through a searchable database and meets the requirements of the State of California Small Business Program.
- Allows for a two-tiered Bid/Proposal Evaluation Preference to the total amount of a bid/proposal submitted by a Bidder/Proposer for the purpose of bid/proposal comparisons when determining the lowest responsive and responsible bid or most advantageous proposal.
 - A Bid/Evaluation Preference of five percent (5%) or five (5) points will be added to the total evaluation percentage or points, when the Proposer meeting specifications commits to at least twenty-five percent (25%) SBE participation for the work (which can be achieved by the prime, by a sub(s), or a combination of prime and sub(s) who meet the requirements).
 - A Bid/Evaluation Preference of 10 percent (10%) or ten (10) points will be added to the total evaluation percentage or points, when the Proposer meeting specifications commits to forty percent (40%) or more SBE participation for the work (which can be achieved by the prime, by a sub(s), or a combination of prime and sub(s) who meet the requirements).

Issues: None identified.

Recommendation: Staff recommends that the Committee refer SAFE Resolution No. 067 Small Business Enterprise (SBE) Program, to the Authority for approval.

Attachments: SAFE Resolution No. 067, Service Authority for Freeways and Expressways (SBE) Small Business Enterprise (SBE) Program; and PowerPoint presentation


Therese W. McMillan

Date: March 25, 2020
W.I.: 1150
Referred by: Operations Committee

ABSTRACT

SAFE Resolution No. 067

This resolution adopts SAFE's Small Business Enterprise (SBE) Program ("Program") to increase the number of certified SBEs participating in non-federally funded and non-architectural and engineering contracts. The Program is intended to increase overall competition, provide a level playing field on which SBEs can compete fairly, provide economic opportunity for the residents and businesses, and stimulate economic development in the San Francisco Bay region.

Resolution No. 067 supersedes Resolution No. 061, Revised.

Discussion of this action is contained in the Operations Committee Summary Sheet dated March 13, 2020.

Date: March 25, 2020
W.I.: 1150
Referred by: Operations Committee

Re: Adoption of SAFE's Small Business Enterprise (SBE) Program

SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS
RESOLUTION NO. 067

WHEREAS, the Service Authority for Freeways and Expressways (SAFE) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code § 66500 *et seq.* and is the federally designated metropolitan planning organization for the San Francisco Bay Area; and

WHEREAS, SAFE currently has a Construction Project Small Business Enterprise Program adopted through Resolution No. 061 in October of 2015, as well as a Professional Services Small Business Enterprise Pilot Program that was approved by the Administration Committee in January of 2017, and

WHEREAS, this SBE Program combines the previous programs into one revised and comprehensive SBE Program; and

WHEREAS, SAFE wishes to increase the number of certified Small Business Enterprise (SBE) firms participating in SAFE materials, equipment, supplies, services and construction contracts, help remove barriers to the participation of SBEs, provide economic opportunity for the residents and businesses, and stimulate economic development in the San Francisco Bay Area Region; and

WHEREAS, providing assistance to SBE firms could increase the number of certified SBEs participating, and increase competition on non-federally-funded contracts potentially allowing for the completion of projects at a lower overall cost; and

WHEREAS, SAFE has developed a Small Business Enterprise (SBE) Program ("Program") that applies to non-federally funded, non-architectural and engineering (A&E) materials, equipment, supplies, services and construction contracts with a budget in excess of \$25,000; and

WHEREAS, the Program would apply to any firm that is certified under any of the following certifications: State of California Department of General Services (DGS) SBE Program, California United Certification Program DBE certification; City and County of San Francisco Contract Monitoring Division Local Business Enterprise (LBE) certification; Alameda County Small Local and Emerging Business (SLEB) certification; or LBE / Minority Business Enterprise (MBE) / SBE / Women's Business Enterprise (WBE) certifications from a formal certifying agency in the nine county Bay Area provided that the certification can be verified through a searchable database and meets the requirements of the State of California Small Business Program; and

WHEREAS, the Program allows for a two-tiered bid evaluation preference to be applied to materials, equipment, supplies, services and construction contracts when the requirements for participation are met; and

WHEREAS, the SBE Program describes the monitoring, compliance, oversight and enforcement requirements to ensure that SBE participation is achieved; now, therefore, be it

RESOLVED, that SAFE hereby adopts the SBE Program set forth in Attachment A; and be it further

RESOLVED, that adoption of this SBE Program supersedes the Construction Project Small Business Enterprise Program adopted through Resolution No. 061, Revised, as well as the Professional Services Small Business Enterprise Pilot Program; and be it further

RESOLVED, that the Executive Director is hereby authorized to revise the SBE Program set forth in Attachment A as may be required from time to time due to changes in law, regulation or procedures relating to the SBE Program and to take such actions as may be necessary or appropriate to implement the SBE Program; and be it further

RESOLVED, that this resolution supersedes Resolution No. 061, Revised; and be it further

RESOLVED, that this resolution shall take effect from and after its adoption.

SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

Scott Haggerty, Chair

The above resolution was entered
into by the Service Authority for Freeways
and Expressways at a regular meeting of
the Authority held in San Francisco,
California, on March 25, 2020.

Date: March 25, 2020
W.I.: 1150
Referred by: Operations Committee

Attachment A
Resolution No. 067

SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

Small Business Enterprise (SBE) Program



METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

Service Authority for Freeways and Expressways Small Business Enterprise (SBE) Program

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OBJECTIVES/POLICY STATEMENT

In order to provide economic opportunity for residents and businesses, and stimulate economic development in the San Francisco Bay Area Region, the Service Authority for Freeways and Expressways (SAFE) hereby establishes a Small Business Enterprise (SBE) Program (“SBE Program” or “Program”) to assist SBE firms in participating in SAFE non-federally funded, non-architectural and engineering (A&E) materials, equipment, supplies, services and construction contracts. This Program is aimed at using the power of the public purse to stimulate economic development.

The objectives of the SBE Program include:

1. To increase the number of certified SBEs participating in non-federally funded, non-A&E contracts;
2. To increase overall competition on non-federally funded, non-A&E contracts potentially allowing for the completion of projects at a lower overall cost;
3. To create a level playing field on which SBEs can compete fairly on non-federally funded contracts;
4. To ensure that only SBE firms (prime Consultant/Contractor or Subconsultant/Subcontractor/Vendor) meeting the Program’s eligibility requirements are eligible for the Evaluation Preference allowed under the Program;
5. To help remove barriers to the participation of SBEs in non-federally funded contracts; and
6. To identify business enterprises that are qualified as SBE’s and are qualified to provide SAFE with required materials, equipment, supplies and services.

The Director of Administration & Facilities Services Section (AFS) has been designated as the SBE Liaison Officer (SBELO). In that capacity, the AFS Director is responsible for implementing all aspects of the Program. Implementation of the SBE Program is intended to be consistent with the MTC Disadvantaged Business Enterprise (DBE) Program.

SUBPART A – GENERAL REQUIREMENTS

A.1 Objectives

The objectives are found in the policy statement on the first page of this Program.

A.2 Applicability

SAFE is a recipient of state and local funds. As a condition of this assistance, and in compliance with Proposition 209, SAFE shall implement this Program without consideration of race, sex, or ethnicity. This Program sets forth the policies and procedures to be implemented by SAFE to confirm that small businesses have the maximum opportunity to participate in SAFE non-federally funded materials, equipment, supplies, services and construction contracts.

When a non-federally funded, non-A&E contract is awarded to a Consultant/Contractor/Vendor based on the Evaluation Preference described in C.1 of this Program, the Consultant/Contractor/Vendor must adhere to all the requirements included in this Program.

This Program applies solely to non-federally funded, non-A&E materials, equipment, supplies, services and construction contracts.

A.3 Definitions

SAFE adopts the following definitions listed below for this SBE Program:

1st Tier Subconsultant/Subcontractor/Vendor – A subconsultant or subcontractor to a Consultant or Contractor.

2nd Tier Subconsultant/Subcontractor/Vendor – A subconsultant or subcontractor to a 1st Tier subconsultant or subcontractor.

AFS – Administrative and Facilities Services Section.

Bid – The offer of the bidder for the construction project when completed and submitted in response to an IFB on the prescribed bid form.

Bid Preference – The application of a percentage discount to the total amount of a bid submitted by a Bidder for a contract solely for the purpose of bid comparisons when determining the lowest and best bid, or lowest responsible bid. The use of a bid preference for bid comparison does not alter the total amount of the bid submitted by a bidder or the contract executed based on a bid.

Business Suppliers – An individual or business entity that makes available a certain commodity for meeting demand or for purchase at a given price.

Civil Construction – Civil Construction is a segment of the broader construction industry focused on building core infrastructure such as highways, roads, bridges, telecommunications, subway tunnels, light rail transit lines and public buildings.

Commercially Useful Function (CUF) – An SBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. An SBE does not perform a CUF if it does not perform or exercise responsibility for at least 60 percent of the total cost of its contract that would be expected on the basis of normal industry practice for the type of work involved. If, in SAFE's judgment, the SBE does not perform a CUF in the transaction, no Evaluation Preference will be awarded.

Community Based Organization (CBO) – A non-government agency created to provide training, employment or community assistance.

Consultant/Contractor/Vendor – The individual, partnership, corporation, joint venture or other legal entity entering into a contractual agreement with SAFE.

Evaluation Preference – The application of a percentage or point preference to the total evaluation score of a Proposer for a procurement or solicitation, solely for the purpose of Proposal or SOQ comparisons when determining the highest ranked Proposal or SOQ. The use of an Evaluation Preference for Proposal or SOQ comparison will alter the total percentage or points allotted to the Proposer.

Invitation for Bid (IFB) – Invitation for Bid issued by SAFE for construction services.

Manufacturer – A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies purchased.

MTC - Metropolitan Transportation Commission.

Monitoring – The system established to measure compliance with the Program.

Post Award – The meeting held between SAFE and Consultants/Contractors/Vendors after the award of a Professional Services or civil construction project and before contract execution. Post award meetings occur at the request of either SAFE or Consultant/Contractor/Vendor.

Professional Services – any non-public works service(s). Professional Services contracts may contain a minor public works component.

Proposer – Consultant/Contractor/Vendor submitting a Proposal or SOQ in response to a RFP or RFQ.

Proposal – An offer of a Proposer to provide Professional Services, in response to an RFP.

Request for Proposal (RFP) – RFP issued by SAFE for Professional Services.

Request for Qualifications (RFQ) – RFQ issued by SAFE for Professional Services.

SAFE – Service Authority for Freeways and Expressways.

SBE Program – The SAFE SBE Program.

Small Business Enterprise (SBE) – A firm that meets the requirements set forth in Section B.3 Certification Standards and SBE Directories.

SBE Broker – An SBE Broker is a firm that is not a vendor but is providing assistance in the procurement of required materials or supplies.

SBE Dealer – An SBE Dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. The firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

SBE Directory – The list of firms certified under any of the programs outlined in Section B.3 Certification Standards and SBE Directories, which is used by SAFE and its Consultants/Contractors/Vendors to identify potential SBE Consultants/Contractors/Vendors and Subconsultants/Subcontractors/Vendors and suppliers.

SBELO – Small Business Enterprise Liaison Officer.

SOQ – A statement of qualifications submitted by a Proposer in response to an RFQ.

Subcontract – A contract entered into between a Consultant/Contractor/Vendor with a Subconsultant/Subcontractor/Vendor.

Subconsultant/Subcontractor/Vendor – The individual, partnership, corporation or other legal entity that contracts to perform part of or all of the obligations of another's contract.

Subrecipient – Any agency that receives funds from SAFE via statute, an interagency, cooperative or funding agreement.

Utilization – Percentage of total dollars of a type of work going to SBEs.

Web-based Diversity Tracking System – The diversity tracking software provided by MTC to Consultants/Contractors/Vendors accessible from any internet browser on any platform or operating system.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

B.1 Program Updates

The SBELO or designee will provide the appropriate authorizing board with updates representing significant changes in the Program.

B.2 SBELO and Program Implementation

SAFE has designated the following individual as its SBE Liaison Officer (SBELO):

Director of Administration and Facilities Section (AFS)
Metropolitan Transportation Commission
375 Beale St, Suite 800
San Francisco, CA 94105
Phone: (415) 778-6700
Email: contracts@bayareametro.gov

In that capacity, the SBELO is responsible for implementing all aspects of the SBE Program and ensuring that SAFE complies with all provisions of the SBE Program. The SBELO has direct, independent access to the Executive Director concerning SBE Program matters.

The SBELO is responsible for developing, implementing and monitoring the SBE Program, in coordination with other appropriate officials. The SBELO has staff to assist in the administration of the SBE Program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with the SBE Program.
3. Works with AFS staff to determine if a Proposer/Bidder has achieved the requirements for the Evaluation Preference.
4. Confirms that notices of procurement and solicitations are available to SBEs in a timely manner.
5. Identifies qualified contracts and procurements so that SBE preferences are included in all applicable procurements.
6. Analyzes SAFE's progress toward SBE attainment and identifies ways to improve progress.
7. Participates in pre-proposal/pre-bid meetings.
8. Advises the Executive Director and/or the appropriate authorizing board on SBE matters and achievement.
9. Provides outreach to SBEs and CBOs to advise them of opportunities and technical assistance to SBEs to assist in Proposal, SOQ and/or bid preparation and obtaining bonding and insurance.

B.3 Certification Standards and SBE Directories

SAFE does not administer an SBE certification program. To be eligible for the Bid/Evaluation Preference allowed under the SBE Program, firms (prime Contractor or Subconsultant/Subcontractor/Vendor) must be certified under any of the programs outlined below:

1) *California Certified Small Business as certified by the California Department of General Services (DGS) -Procurement Division (PD) - Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS)*

The State of California SBE Directory can be accessed at:

<https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>

2) *A Disadvantaged Business Enterprise (DBE) as certified by the California Unified Certification Program (CUCP)*

The CUCP Directory can be accessed at:

<https://dot.ca.gov/programs/business-and-economic-opportunity>

3) *City and County of San Francisco Local Business Enterprise (LBE) as certified by the Contract Monitoring Division (CMD) Directory Certification Unit*

The Directory of Certified LBEs can be accessed here:

<https://sfgov.org/cmd/directory-certified-lbes>

4) *Alameda County Small Local and Emerging Business (SLEB) program as certified by the Alameda County SLEB Certification Unit*

The SLEB Supplier Query System Database can be accessed at:

https://www.acgov.org/sleb_query_app/gsa/sleb/query/slebsresultlist.jsp?smEmInd=C

5) LBE/MBE/SBE/WBE certification from a formal certifying agency in the nine-county Bay Area, provided that the certification can be verified through a searchable database and meets the requirements of the State of California Small Business Program.¹

Note:

¹ Per Title 2, California Code of Regulations, § 1896.12. Eligibility for Certification as a Small Business.

To be eligible for certification as a small business, a business must meet all of the following qualifying criteria:

- (1) It is independently owned and operated; and
- (2) Its principal office is located in California; and
- (3) The officers of the business (in the case of a corporation); officers and/or managers, or in the absence of officers and/or managers, all members in the case of a limited liability company; partners in the case of a partnership; or the owner(s) in all other cases, are domiciled in California; and
- (4) It is not dominant in its field of operation(s), and
- (5) It is either:

(A) A business that, together with all affiliates, has 100 or fewer employees, and annual gross receipts of fifteen million dollars (\$15,000,000) or less as averaged for the previous three (3) tax years, as biennially adjusted by the Department in accordance with Government Code § 14837(d)(3) (If the business or

its affiliate(s) has been in existence for less than three (3) tax years, then the GAR will be based upon the number of years in existence); or

(B) A manufacturer as defined herein that, together with all affiliates, has 100 or fewer employees.

B.4 Record Keeping Requirements

When a non-federally funded, non-A&E contract is awarded to a Consultant/Contractor/Vendor based on the Evaluation Preference listed in Subpart C, Section C.1 of this SBE Program, AFS will monitor the contract per Subpart D, to confirm that the Consultants/Contractors/Vendors are in compliance with the requirements of the SBE Program. AFS staff will report SBE participation to the appropriate authorizing board via reports generated from the web-based diversity tracking system.

SAFE will require Consultants/Contractors/Vendors to maintain records and documents of payments to all Subconsultants/Subcontractors/Vendors (SBEs and non-SBEs) for four (4) years following the completion of the contract. SAFE will perform interim reviews of contract payments to SBEs. Payments to SBE Subconsultants/Subcontractors/Vendors will be reviewed to verify that the actual amount paid to SBE Subconsultants/Subcontractors/Vendors equals or exceeds the dollar amounts stated in the schedule of SBE participation included in the contract.

B.5 Public Outreach

SAFE will participate in outreach events with other San Francisco Bay Area transportation agencies and CBOs to leverage its efforts to assist SBE firms. SAFE will also participate in Caltrans' CalMentor Protégé Program for small business development.

SUBPART C – EVALUATION PREFERENCE AND SBE PARTICIPATION

C.1 Evaluation Preference

SAFE will allow an evaluation preference to be applied as a percentage discount to the total amount of a proposal/bid submitted by a Proposer/Bidder for a contract solely for the purpose of bid comparisons when determining the lowest and best bid, or lowest responsible bid. The use of an evaluation preference for Proposal, SOQ, or Bid comparison does not alter the total amount of the bid submitted by a bidder or the contract executed based on a bid. The SBE Program evaluation preference will be applied to all locally-funded solicitations when issued.

The Evaluation Preference applied as a percentage or point preference to the total evaluation percentage or points of a Proposal, SOQ, or Bid submitted by a Proposer/Bidder for a contract will be solely for the purpose of evaluation comparisons when determining the highest ranked Proposal or SOQ. The use of an Evaluation Preference for Proposal, SOQ or Bid comparison will alter the total evaluation percentage or points allotted to a Proposer/Bidder.

The Evaluation Preference will be applied to all non-federally funded solicitations. The Evaluation Preferences will be applied as follows after SAFE verifies that the responsiveness requirements have been met:

- An Evaluation Preference of five percent (5%) or five (5) points will be added to the total evaluation percentage or points, when the Proposer meeting specifications commits to twenty-five percent (25%) SBE participation for the work (which can be achieved by the prime, by a sub(s), or a combination of prime and sub(s) who meet the requirements set forth in Section B.3 of this SBE Program), or
- An Evaluation Preference of 10 percent (10%) or ten (10) points will be added to the total evaluation percentage or points, when the Proposer meeting specifications commits to forty percent (40%) SBE participation for the work (which can be achieved by the prime, by a sub(s), or a combination of prime and sub(s) who meet the requirements set forth in Section B.3 of this SBE Program).

AFS staff will monitor SAFE's SBE Program to confirm that the Consultants/ Contractors/Vendors are in compliance with the requirements of the SBE Program. The report of SBE awards, commitments and payments will be generated from the web-based diversity tracking system.

C.2 Maintaining Participation

Once a project begins, it is important to achieve and maintain the level of SBE participation that allowed the Evaluation Preference. Prime Consultants/ Contractors/ Vendors must maintain the SBE percentages indicated in the Proposal, SOQ or Bid documents at the time of Proposal, SOQ or Bid submittal throughout the term of the contract.

If SAFE modifies the original scope of work, the Consultant/Contractor/Vendor must make reasonable efforts to maintain the SBE participation that allowed the Evaluation Preference. In the event of amendments, AFS staff may use their discretion to allow adjustments to SBE percentages for the amended portion of the work. Upon request, SAFE staff will help firms to determine methods of maintaining percentages.

Should the prime Consultant/Contractor/Vendor fail to maintain the SBE participation listed at the time of Proposal, SOQ or Bid submittal, SAFE reserves the right to enforce Consultant/Contractor/Vendor compliance with this SBE Program through one or more of the remedies included in Section D.3 of this SBE Program.

C.3 Substitution of Listed Subcontractors

Substitution of listed Subconsultants/Subcontractors/Vendors shall generally be made in accordance with Public Contracts Code Section 4107. In addition, the SBELO must concur in any decision to permit substitution of a SBE Subconsultant/Subcontractor/Vendor when the award was made on the basis of the Evaluation Preference listed in Section C.1 above.

C.4 Joint Venture Agreements

A business that is competing for SAFE contracts may associate with a certified SBE business to compete for contracts as a Joint Venture (JV). JVs receive an Evaluation Preference depending upon the SBE percentage of participation as set forth in Section C.1 of Subpart C, Evaluation Preference and SBE Participation. The parties must agree to enter into the relationship for at least the term of the project.

Basic Elements of the Joint Venture Agreement

A JV must submit a JV Management Plan and/or a JV Agreement in their Proposal or SOQ. Each agreement or management plan must include, but is not limited to the following:

- Detailed explanation of the financial contribution of each partner;
- List of the personnel and equipment used by each partner;
- Detailed breakdown of the responsibilities of each partner;
- Explanation of how the profits and losses will be distributed;
- Description of the bonding capacity of each partner; and
- Management or incentive fees available for any one of the partners (if any).

Commercially Useful Functions (CUF) Performed by Joint Venture Partners

Each JV partner must perform a “commercially useful function” as that term is defined herein. A SBE that relies on the resources and personnel of a non-SBE

firm will not be deemed to perform a CUF.

Joint Venture License Requirements

Each JV partner must possess qualifications, certifications, accreditations, or licenses appropriate for the discipline for which a Proposal, SOQ or Bid is being submitted. If a JV is proposing/bidding on a project requiring license or certification, at the time of Proposal, SOQ or Bid submittal, each of the JV partners must hold a JV License or Certification and possess the requisite specialty license or certification for that profession.

Delineation of Joint Venture Work

The SBE partner must clearly define the portion of the work to be performed during the project. This work must be of the similar type of work the SBE partner performs in the normal course of its business. The Proposal, SOQ or Bid must specify the portions of the project to be performed by each individual JV partner. Lump sum JV participation is not acceptable.

Responsibilities of the SBE Joint Venture Partners

The SBE partner must share in the ownership, control, management responsibilities, risks, and profits of the JV in proportion with level of participation in the project; the SBE partner must perform work that is commensurate with its experience. The SBE partner must use its own employees and equipment to perform its portion of the project. Only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the SBE performs with its own forces will be counted toward SBE participation

Application of Evaluation Preference for Joint Venture Agreements

To be eligible for an Evaluation Preference, at the time of Proposal, SOQ or Bid submittal, each JV partner must each have the qualification, certification, accreditation, or license that is appropriate for the project as required in the contract document of the contract award authority. Unless permission is granted by the SBELO or designee for good cause shown, based on sudden and unexpected necessity, the following actions are not permitted: i) the non-SBE partner performing work for the SBE partner; ii) leasing of equipment or property by the SBE partner from the non-SBE partner; and iii) the hiring of the non-SBE partner's employees by the SBE partner.

Other Joint Venture Conditions

The SBELO or a designee must first approve the SBE JV Agreement/Management Plan before the JV is eligible for an Evaluation Preference. Any changes must also receive the prior approval of the SBELO or designee. In addition to any other information required by conditions specified herein, each SBE JV must provide upon request, cancelled checks and any other financial records to SAFE.

C.5 Counting SBE Participation

SBEs may perform as Consultants/Contractors/Vendors, 1st tier Subconsultants/Subcontractors/Vendors, or 2nd tier Subconsultants/Subcontractors/Vendors. Only the value of the work to be performed by the SBE, including materials and supplies, will be counted toward SBE participation.

A SBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work. If an SBE 1st Tier or 2nd Tier Subconsultant/Subcontractor/Vendor does not perform or exercise responsibility for at least sixty percent (60%) of the total cost of its contract with its own work force, or if the SBE subcontracts a greater portion of work of a contract than would be expected on the basis of normal industry practice, then it will be presumed that the SBE is not performing a CUF.

Credit for an SBE Dealer of materials or supplies is limited to sixty percent (60%) of the amount to be paid to the vendor for the materials or supplies unless the vendor manufactures or substantially alters the goods. Credit for SBE Brokers is limited to only the fees and commissions portion of the amount paid. All other firms receive 100% credit, less work subcontracted by the SBE to non-SBE firms.

During the term of a contract, work performed by SBE firms whose certification has expired will continue to be counted toward the SBE participation.

SUBPART D – COMPLIANCE AND ENFORCEMENT

D.1 Monitoring

When a contract is awarded to a Consultant/Contractor/Vendor based on the Evaluation Preference listed in Subpart C, Section C.1 of this Program, AFS will monitor the contract per Subpart D, to confirm that the Consultants/Contractors/Vendors comply with the requirements of the Program. AFS staff will report SBE participation to the appropriate authorizing board via reports generated from the web-based diversity tracking system.

SAFE will require Consultants/Contractors/Vendors to maintain records and documents of payments to all Subconsultants/Subcontractors/Vendors (SBEs and non-SBEs) for four years following the performance of the contract. SAFE will perform interim reviews of contract payments to SBEs. Payments to SBE Subconsultants/Subcontractors/Vendors will be reviewed to verify that the actual amount paid to SBE Subconsultants/Subcontractors/Vendors equals or exceeds the dollar amounts stated in the schedule of SBE participation included in the contract.

Subrecipients may be required to submit verification of their eligibility for participation in the SBE Program and to provide annual reports of SBE utilization on Professional Services or Civil Construction projects achieved under the SBE Program.

SAFE has implemented the following monitoring mechanisms to monitor Consultant/Contractor/Vendor compliance with Program requirements:

1. The SBELO or designee will verify that work committed to SBEs at contract award is actually performed by the SBEs.
2. The SBELO or designee will keep a running tally of actual payments to SBE firms for work committed to them at the time of contract award with the use of SAFE's web-based diversity tracking system.

If a Professional Services or Construction project has a public works portion of work valued over \$1,000.00, the State's Labor Code requires Consultants/Contractors/Vendors to pay their employees in accordance with general prevailing wages that apply to that portion of the work. The prime Contractor and all Subconsultants/Subcontractors/Vendors including, if applicable, truckers and owner/operators are required to submit certified payroll records in accordance with Labor Code section 1776 upon request from SAFE. Failure to submit certified payroll records could result in withholding of progress payment(s).

Upon request, Consultants/Contractors/Vendors will provide SAFE with executed copies of its Subconsultant/Subcontractor/Vendor agreements to verify dollar amounts stated for all SBEs.

D.2 SBE Utilization Report

Consultants/Contractors/Vendors are required to submit monthly SBE Utilization Reports electronically to MTC AFS. The Consultant/Contractor/Vendor will document the dollar value of payments to SBE firms and the percentage of the contract completed. SAFE will monitor the contract for compliance with SBE requirements.

This system is web-based, accessible from any computer via the internet. Each Consultant/Contractor/Vendor and Subconsultant/Subcontractor/Vendor will receive an email providing them with Log On identification, a temporary password and instructions on how to use the system. Training will also be provided upon request. Consultant/Contractor/Vendor will include this requirement in all of its subcontracts and purchase orders when required to provide or verify SBE utilization documentation.

If the SBE Utilization Reports indicate potential problems, such as a failure to comply with the contract SBE participation, the Consultant/Contractor/Vendor shall meet with the SAFE SBELO or designee to address any deficiencies and discuss appropriate corrective actions. When the Contract completion reaches 50% and the SBE participation completed is less than 50%, a detailed report of the reasons why must be submitted to SAFE stating a plan to reach the SBE participation by Contract completion.

Prior to final payment, Consultant/Contractor/Vendor will be required to submit a final SBE Utilization Report by selecting the "Final Audit" reporting designation within the web-based diversity tracking system. In addition to payments to the SBEs, the final report must include payments to and other information about all other businesses, including non-SBE Subconsultants/Subcontractors/Vendors, suppliers of materials and others.

D.3 SBE Program Enforcement

SAFE has available several remedies to enforce compliance of the SBE Program requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, resulting from a violation of the terms of the RFP, RFQ or IFB and contract.
2. Assessment of a penalty of up to one and one half times the amount that should have been awarded to SBE(s).
3. Termination of Contractor's performance of work under the contract.
4. Any other remedy available to SAFE in the contract or the relevant RFP, RFQ or IFB.



Updated Small Business Enterprise (SBE) Program

1

Staff is proposing to combine the current two SBE programs into an updated combined program

Current SBE Programs

3

Construction Project SBE Program (adopted in October 2015)

Applicable to:	Acceptable Certifications:	Bid/Evaluation Preference:	Statistics:
Non-Federally Funded and Non-Architectural & Engineering Contracts	State of California Department of General Services (DGS) SBE Program	5% bid discount applied if the lowest responsive, responsible bidder is a certified SBE and is performing at least forty percent (40%) of the work or commits to subcontract with certified SBE firm(s) for at least 40% of the work	7 Civil Construction IFBs have been issued with the SBE Program applied, 3 of which were awarded based on the SBE Preference resulting in commitments to SBEs of \$6,250,726

Professional Services SBE Pilot Program (MTC Admin Committee approval in January 2017)

Applicable to:	Acceptable Certifications:	Bid/Evaluation Preference:	Statistics:
Non-Federally Funded and Non-Architectural & Engineering Contracts	State of California Department of General Services (DGS) SBE Program	5% bid discount applied if the lowest responsive, responsible bidder is a certified SBE and is performing at least forty percent (40%) of the work OR commits to subcontract with certified SBE firm(s) for at least 40% of the work	13 RFP/RFQs have been issued with the SBE Pilot Program applied, 6 of which were awarded based on the SBE Preference resulting in commitments to SBEs of \$21,623,124.83

Updated / Combined SBE Program

- Combine the Pilot Professional Services SBE program and the Construction Project SBE Program into one comprehensive SBE Program that applies to construction and professional services non-federally funded and non-Architectural & Engineering (A&E) procurements.
- Broaden the acceptable SBE certifications in order to cast a wider net to SBE firms in the Bay Area, including Disadvantaged Business Enterprise (DBE), Local Business Enterprise (LBE), Minority Business Enterprise (MBE) and Women Business Enterprise (WBE).
- Allows the bid/evaluation preference to be met by a combination of prime/subcontractor participation
- Revise the bid/evaluation preference into a two-tiered program, which allows:
 - **5% bid/evaluation** applied if the lowest responsive, responsible bidder or proposer commits to at least twenty-five percent (25%) SBE Participation, or
 - **10% bid discount** applied if the lowest responsive, responsible bidder or proposer commits to at least forty percent (40%) SBE Participation

The benefits of the updated program are:

- Increase opportunity for SBEs to participate in contracts by broadening the acceptable certifications allowed in the program to remove bureaucratic certification barriers
- Providing a two-tiered Bid/Evaluation Preference
- Allowing SBE participation levels to be met by prime SBEs, subconsultant SBEs or a combination of the two

Next Steps

- Staff will present resolutions for adoption of the updated SBE Program to the appropriate committees and/or authorities including MTC, BATA, BAIFA, BAHA and MTC SAFE
- Collaborate with stakeholders, including the Equity and Access subcommittee of the Policy Advisory Council, to identify and implement outreach strategies
- Staff training and inclusion of the program in MTC's policies and procedures

Staff recommends that the Committee refer SAFE Resolution No. 067 Small Business Enterprise (SBE) Program, to the Authority for approval

Questions