



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 34

Agenda Date: June 23, 2022

In Control: City Council A Session

DEPARTMENT: Economic Development Department

DEPARTMENT HEAD: Brenda Hicks-Sorensen

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Capacity Building & Bonding Assistance Program.

SUMMARY:

An ordinance authorizing the execution of a Funding Agreement with the San Antonio Economic Development Corporation (SAEDC) in an amount not to exceed \$600,000 for the establishment and implementation of a Capacity Building & Bonding Assistance Program administered by James Swindle dba Alamo Surety Bonds. Funding for the agreement is available in the FY 2022 General Fund Budget.

BACKGROUND INFORMATION:

The 2010 Small Business Economic Development Advocacy (SBEDA) Ordinance amendments (2010-06-17-0531) established a Bonding Assistance Program (the “Program”) administered in partnership with Alamo Colleges District. The Program, targeted toward local contractors, consisted of classes for eligible local small, minority, and woman-owned businesses related to access to capital, credit repair, bonding/risk management, etc. The need to continue the Bonding Assistance Program was reaffirmed as part of the subsequent 2016 SBEDA Ordinance amendments (2016-05-19-0367).

In February 2020, City leadership met with the Fair Contracting Coalition to gather feedback from small construction businesses regarding challenges to compete on City contracts, specifically task order contracts, due to bonding capacity and financial constraints that the Bonding Assistance Program could not resolve due to its pure educational nature. Small construction businesses shared the following concerns:

- Contractors' requirement to provide bonding in the full amount of a task order contract and the impact to the contractors' overall bonding capacity when work is issued on a per project basis;
- Contractors' ability to recapture bonding costs in a timely manner; and
- Inconsistent bonding requirements on City contracts.

As a result, a workgroup was assembled that included representation from the City of San Antonio's Finance, Economic Development, and Public Works Departments, as well as the Fair Contracting Coalition, SBEDA Committee, local businesses, and sureties. The following collaborative solutions were reviewed and agreed to by the workgroup to address barriers affecting the ability of local, small, minority, and women-owned businesses to provide bonding on City construction contracts:

- Creating task order contracts with multiple terms, where feasible, which effectively reduces required bonding capacity;
- Creating consistent solicitation language to specifically address bonding requirements for task order contracts;
- Allowing contractors to invoice for the cost of payment and performance bonds upon contract award;
- Closer coordination between City Procurement Staff and Project Managers to minimize time between receipt of bonds and issuance of task orders; and
- Pursuing legislative changes to Chapter 2253 of the Government Code that governs Public Work Payment and Performance Bonds to allow bonding on a per project basis for task order contracts.

In addition to the City solicitation changes, the Economic Development Department conducted research and due diligence to redesign the current Bonding Assistance Program, in collaboration with the workgroup, to provide services above and beyond education to assist small construction businesses seeking City contracts. One key challenge that was identified was a need to assist small construction businesses in identifying a source of funding to assist in meeting City bonding requirements.

Under Texas statute, surety companies are exclusively granted the right to provide guarantees of a vendor's ability to bid and perform. The Texas Constitution prohibits a governmental entity from lending its credit to offset bonding requirements for a private company, and further prohibits the Texas legislature from granting cities such a right. Therefore, a partnership between City and the SAEDC, a 501(c)(3) nonprofit, would overcome these statutory limitations and provide for the establishment and implementation of a new Capacity Building & Bonding Assistance Program to not only continue education, but also provide one-on-one consulting based on bonding assessments and the creation of a fund to offset bonding requirements for small businesses when bidding on City contracts.

Once the Program changes were identified, a Request for Proposal (RFP) was issued on December 22, 2021 for program administration services regarding the Capacity Building & Bonding Assistance Program. Upon conclusion of the evaluation process, James Swindle dba Alamo Surety Bonds was selected, to administer the Program, with the SAEDC.

ISSUE:

The recommended funding agreement will authorize the SAEDC to establish and implement the Capacity Building & Bonding Assistance Program administered by James Swindle dba Alamo Surety Bonds. In total, \$600,000 in funds will be provided to the SAEDC, of which \$500,000 will be set aside to establish a revolving pool of funds to offset City bonding requirements for small construction businesses and \$100,000 will be utilized for Program administrative services through James Swindle dba Alamo Surety Bonds. An agreement between the SAEDC and Alamo Surety Bonds will be for a one-year term, with the option for the SAEDC to renew for one additional year. The following services will be provided to eligible local small, minority, and woman-owned businesses:

- Education – Identify curriculum and provide educational assessments;
- Guidance – Provide one-on-one tailored assistance, evaluate past bond applications, provide referrals;
- Financial Assistance – Manage and disburse \$500,000 from a revolving pool of funds to small construction contractors to offset bonding needs, work with surety companies to develop underwriting criteria to project Program resources;
- Implementation, Budget, Metrics – Establish short-term and long-term Program goals, identify and measure metrics, develop forms, policies, and procedures;
- Program Review – Recommend program improvements based on metrics, submit monthly detailed reports, collaborate with the City to modify bonding procedures; and
- Marketing – Develop and execute an annual marketing plan.

On June 13, 2022, the SAEDC approved a Professional Services Agreement with James Swindle dba Alamo Surety Bonds to provide the administration services associated with the Capacity Building & Bonding Assistance Program, which is expected to be available to small construction businesses by the end of Summer 2022. The Professional Services Agreement is contingent upon City Council approval of the Funding Agreement between the City of San Antonio and the SAEDC.

ALTERNATIVES:

Should this Funding Agreement not be approved, the City would need to identify a different partner to establish a revolving pool of funds to offset bonding costs for small construction businesses on City contracts. In addition, the revised scope of services identified by the Bonding Assistance Workgroup, included in the Capacity Building & Bonding Assistance Program, would not be implemented and the City would continue to provide education only assistance through the current Bonding Assistance Program administered in partnership with Alamo Colleges.

FISCAL IMPACT:

Funding in the amount of \$550,000.00 is available from the FY 2022 General Fund Budget.
Funding in the amount of \$50,000.00 is subject to appropriation in the FY 2023 General Fund Budget.

RECOMMENDATION:

Staff recommends the approval of a Funding Agreement with the SAEDC to establish and implement the Capacity Building & Bonding Assistance Program administered by James Swindle dba Alamo Surety Bonds for an amount not to exceed \$600,000.00.