



City of San Antonio

Agenda Memorandum

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Agenda Date: June 13, 2022

In Control: San Antonio Economic Development Corporation Meeting

DEPARTMENT: Economic Development Department

DEPARTMENT HEAD: Brenda Hicks-Sorensen

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Capacity Building & Bonding Assistance Program

SUMMARY:

A resolution authorizing the execution of a Funding Agreement with the City of San Antonio in an amount not to exceed \$600,000 to establish and implement a Capacity Building & Bonding Assistance Program, a Professional Services Agreement with James Swindle dba Alamo Surety Bonds to administer the Program, and amendment to the FY 2022 SAEDC Budget. Final approval for both agreements and the budget amendment is contingent upon City of San Antonio City Council approval.

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 targeted toward 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

San Antonio Economic Development Corporation (SAEDC), a 501(c)(3) nonprofit, would overcome these statutory limitations and provide for the establishment and implementation of a new Contractor Capacity & 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, the City issued a Request for Proposal (RFP) on December 22, 2021 for program administration services regarding the Contractor Capacity & Bonding Assistance Program. The RFP was advertised on TVSA Channel 21, City of San Antonio's Bidding and Contracting Opportunities website, the San Antonio Express-News, the San Antonio e-Procurement System (SAEPS) and an email notification was released to a list of potential Respondents. The solicitation closed on February 7, 2022, and two (2) proposals were received and deemed eligible for evaluation. The evaluation committee met on March 7, 2022, interviews were conducted on March 21, 2022, and final scoring was completed on March 28, 2022. The evaluation of each proposal response was based on a total of 100 points and included the following criteria:

- Experience, Background, Qualifications – 30 points
- Proposed Plan – 25 points
- Price – 20 points
- SBEDA – 10 points
- Local Preference Program – 10 points
- Veteran-Owned Small Business Preference Program – 5 points

Upon conclusion of the evaluation process, the committee recommended the top-ranked firm, James Swindle dba Alamo Surety Bonds, to administer the Contractor Capacity & Bonding Assistance Program, with the SAEDC.

ISSUE:

The recommended Funding Agreement will authorize the San Antonio Economic Development Corporation (SAEDC) to establish and implement the Contractor Capacity & Bonding Assistance Program. The recommended Professional Services Agreement will authorize the SAEDC contract with James Swindle dba Alamo Surety Bonds to administer the Program. 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. As a result, the adopted FY 2022 SAEDC Budget will be amended to reflect the additional agreement funds. 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 by the end of Summer 2022:

- 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.

The Funding Agreement, Professional Services Agreement, and FY 2022 SAEDC Budget amendment are contingent upon City of San Antonio City Council approval currently scheduled for June 23, 2022.

The Small Business Economic Development Advocacy (SBEDA) Goal Setting Committee applied the Small and Minority / Women-Owned Business Enterprise Program Contract Program with five Small Business Enterprise (SBE) Prime Contract Program evaluation preference points awarded to a vendor certified as SBE located within the San Antonio Metropolitan Statistical Area and five Minority or Woman-Owned Business Enterprise (M/WBE) Prime Contract Program evaluation preference points awarded to a vendor certified as M/WBE located within the San Antonio Metropolitan Statistical Area, in which James Swindle dba Alamo Surety Bonds received five points.

The Local Preference Program was applied in the evaluation of responses received for this contract and James Swindle dba Alamo Surety Bonds was awarded the ten points.

The Veteran-Owned Small Business Preference Program was applied to this contract; however, James Swindle dba Alamo Surety Bonds is not a Veteran-Owned Small Business.

FISCAL IMPACT:

Funding in the amount of \$550,000.00 is available from the City of San Antonio FY 2022 General Fund Budget. Funding in the amount of \$50,000.00 is subject to appropriation in the City of San Antonio FY 2023 General Fund Budget. The FY 2022 SAEDC Budget will be amended to reflect the funds from the agreements.

ALTERNATIVES:

Should this Funding Agreement not be approved, the City would not be able 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 Contractor Capacity & 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.

RECOMMENDATION:

Staff recommends the approval of a Funding Agreement with the City of San Antonio to establish and implement the Contractor Capacity & Bonding Assistance Program for an amount not to

exceed \$600,000, the Professional Services Agreement with James Swindle dba Alamo Surety Bonds to administer the Program, and FY 2022 SAEDC Budget amendment.