



## Board Report

File #: 2021-0484, File Type: Contract

Agenda Number: 15.

### FINANCE, BUDGET AND AUDIT COMMITTEE SEPTEMBER 15, 2021

**SUBJECT: PUBLIC LIABILITY/PROPERTY DAMAGE THIRD PARTY CLAIMS  
ADMINISTRATION SERVICES**

**ACTION: APPROVE CONTRACT AWARD**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to award an eight-year, firm fixed price Contract No. PS75821000, to Carl Warren & Company, LLC to provide Public Liability/Property Damage (PL/PD) claims administration services, in the amount of \$12,148,152 for the four-year base term, \$6,666,674 for the first, 2-year option term, and \$7,111,894 for the second, 2-year option term, for a combined amount of \$25,926,720, effective November 1, 2021, subject to resolution of protest(s), if any.

#### **ISSUE**

The current contract will expire on October 31, 2021. PL/PD claims administration services are necessary for the continuity of Metro's liability claims program.

#### **BACKGROUND**

Metro utilizes the services of a third party administrator (TPA) to investigate, evaluate, and resolve the majority of third party claims filed against Metro. Third party claims generally arise out of bus and rail operations.

#### **DISCUSSION**

Metro's Public Liability/Property Damage Claims Program is administered through a blend of in-house, contractor, and subcontractor staff. In-house Risk Management staff handles the more severe injury claims, while Contractor staff handles the more frequent, less severe injury claims. The subcontractor staff performs all field investigations and responds to an accident scene upon notification from Metro dispatch. Under this new contract, the Contractor shall handle all claims valued at \$100,000 or less while Risk Management will handle cases valued in excess of \$100,000.

Contractor's personnel shall be housed at Metro's Gateway building, similar to the arrangement with the current TPA. Co-locating TPA consultants with Metro's Risk Management's staff has proven to increase efficiencies in claims administration, better coordination and communication with Risk

Management, Operations, and other Metro Departments and reduces contract cost.

Subrogation of losses against a responsible third party is also a part of the services provided by the TPA. Over the last ten years, Metro has received total gross recoveries of \$11,942,917 from subrogation or cross complaints and the TPA recoveries are consistent with industry best practice since they encourage the TPA to recover as much as possible from third parties.

Metro receives an average of 2,500 new public liability/property damage claims a year. The open general liability claims inventory as of RFP issuance was 2,082 claims. Processing claims with an inventory of this size requires the issuance of approximately 150 plus payments monthly to claimants, attorneys, experts, and others. The expertise and infrastructure of a professional TPA in resolving these claims and litigation are essential for structuring a competitive and cost-effective program.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this recommendation will not impact the safety of Metro's patrons or employees.

### **FINANCIAL IMPACT**

The funding for eight months of \$2.1 million for this action for PL/PD third party claims administration services is included in the FY22 budget in cost center 0531, Risk Management, Project 300018, PRMA-PLPD, line item 50316, Professional Services. Since this is a multi-year contract, the Chief Risk, Safety and Asset Management Officer will be accountable for budgeting the cost in future years, including any options exercised. In FY21, \$2.6 million was expended on these services.

#### **Impact to Budget**

The fiscal year funding for this action will come from the Enterprise, General and Internal Service funds paralleling funding for the actual benefiting projects charged. No other sources of funds were considered because these are the activities that benefit from these services. This activity will increase operating costs from the current fiscal year.

### **EQUITY PLATFORM**

The majority of Metro's claims arise from bus and rail operations which primarily include patrons from various equity focused communities, low-income riders, minorities, women, people of color, persons with physical disabilities, and persons with limited English proficiency.

Additionally, as we expand our mobility options with new transportation programs, such as the Crenshaw/LAX line, Regional Connector, Micro Transit, Express Lanes Expansion, NextGen Bus Plan implementation, and other future rail lines, the risks for incidents throughout the County expands, which leads to the potential increase in claims from the newly implemented service. Therefore, awarding this contract benefits the claimants from the various equity focused communities in which Metro provides services and ensures that existing and future claims will continue to be processed and managed without interruption or impact to individual claimants.

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Non-English speaking, visually impaired, and deaf claimants will have the same access to claim adjusters as other claimants since the Contractor will utilize various vendors that provide language translation and interpreting services. Although we do not foresee any other potential negative impact on the equity focused communities through the administration of claim handling activities, Metro will partner with the Contractor to identify activities which might impact those communities and seek remedies when possible. The Contractor will further assist by providing new claim data monthly for certain recurring incidents (such as wheelchair incidents). With this data, Risk Management can inform and work with other Metro departments, such as Operations, to help mitigate the impact on the mobility impaired community.

A 20% Disadvantaged Business Enterprise (DBE) goal was established for this solicitation. Carl Warren & Company met the goal by making a 20% DBE commitment, see Attachment B for details.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports strategic plan goal # 5 “Provide responsive, accountable and trustworthy governance within the LA Metro organization.” The responsible administration of Metro’s PL/PD claims includes the use of third-party claims administration services.

### **ALTERNATIVES CONSIDERED**

The Board may choose to self-administer Metro’s third party claim inventory. This alternative is not recommended as Metro does not have sufficient resources available to perform the work. This would require hiring approximately 30 FTEs. Further, although not known with certainty, the costs for self-administration would be similar or potentially higher than the costs of contracting for this service.

### **NEXT STEPS**

Upon Board approval, staff will execute Contract No. PS75821000 with Carl Warren & Company, LLC, effective November 1, 2021, to provide PL/PD third party claims administration services.

### **ATTACHMENTS**

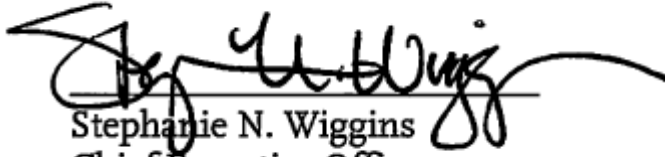
Attachment A - Procurement Summary

Attachment B - DEOD Summary

Prepared by: Juanita Welch, Director, Risk Management, (213) 922-4956

Reviewed by: Kenneth Hernandez, Chief Risk, Safety and Asset Management Officer, (213) 922-2990

Debra Avila, Chief Vendor/Contract Management Officer, (213) 418-3051



Stephanie N. Wiggins  
Chief Executive Officer

## PROCUREMENT SUMMARY

PUBLIC LIABILITY/PROPERTY DAMAGE THIRD PARTY CLAIMS  
ADMINISTRATION SERVICES/PS75821000

|    |                                                                                                                                                                                                                                                                     |                                            |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| 1. | <b>Contract Number:</b> PS75821000                                                                                                                                                                                                                                  |                                            |
| 2. | <b>Recommended Vendor:</b> Carl Warren & Company, LLC                                                                                                                                                                                                               |                                            |
| 3. | <b>Type of Procurement (check one):</b> <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E<br><input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order |                                            |
| 4. | <b>Procurement Dates:</b>                                                                                                                                                                                                                                           |                                            |
|    | A. <b>Issued:</b> May 14, 2021                                                                                                                                                                                                                                      |                                            |
|    | B. <b>Advertised/Publicized:</b> May 17, 2021                                                                                                                                                                                                                       |                                            |
|    | C. <b>Pre-Proposal Conference:</b> May 27, 2021                                                                                                                                                                                                                     |                                            |
|    | D. <b>Proposals Due:</b> June 17, 2021                                                                                                                                                                                                                              |                                            |
|    | E. <b>Pre-Qualification Completed:</b> August 30, 2021                                                                                                                                                                                                              |                                            |
|    | F. <b>Conflict of Interest Form Submitted to Ethics:</b> July 29, 2021                                                                                                                                                                                              |                                            |
|    | G. <b>Protest Period End Date:</b> September 20, 2021                                                                                                                                                                                                               |                                            |
| 5. | <b>Solicitations Picked up/Downloaded:</b><br>24                                                                                                                                                                                                                    | <b>Bids/Proposals Received:</b><br>3       |
| 6. | <b>Contract Administrator:</b><br>Marc Margoni                                                                                                                                                                                                                      | <b>Telephone Number:</b><br>(213) 922-1304 |
| 7. | <b>Project Manager:</b><br>Juanita Welch                                                                                                                                                                                                                            | <b>Telephone Number:</b><br>(213) 922-4956 |

**A. Procurement Background**

This Board Action is to approve the award of Contract No. PS75821000 to Carl Warren & Company, LLC, to provide public liability/property damage third party claims administration services. Board approval of contract award is subject to resolution of all properly submitted protest(s).

Request for Proposals (RFP) No. PS75821 was issued as a competitively negotiated procurement in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price. DEOD recommended a Race Conscious Disadvantaged Business Enterprise (RC DBE) contract goal of 20%.

One amendment was issued during the solicitation phase of the RFP:

- Amendment No. 1, issued on May 27, 2021, updated Exhibit 5C – Payment Provisions.

A virtual pre-proposal conference was held on May 27, 2021. Thirty-one questions were received, and Metro provided responses prior to the proposal due date.

A total of 24 firms downloaded the RFP and were included on the plan holders list. A total of three (3) proposals were received by the due date of June 17, 2021 and are listed below in alphabetical order:

1. Carl Warren & Company, LLC

2. CorVel Enterprise Comp, Inc.
3. George Hills Company, Inc.

## **B. Evaluation of Proposals**

A Proposal Evaluation Team (PET) consisting of staff from Risk Management, Corporate Safety, and Transportation Operations were convened and conducted a comprehensive technical evaluation of the proposals received.

On June 17, 2021, the PET met to review the evaluation criteria package, process confidentiality and conflict of interest forms and take receipt of proposals to initiate the evaluation phase.

Proposals were 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 handling third party claims administration services and annual gross revenue; experience of on-site manager and supervisors; and submission by the proposer of evidence demonstrating that it has recently completed a Statement on Auditing Standards (SAS) 70 audit or Statement of Standards for Attestation Services (SSAE), and a statement confirming its agreement that it will only assign adjusters that have at least two years of California tort experience to the Metro contract, adjusters shall be physically located at Metro Headquarters and it will use any ancillary service as directed by Metro.

The PET reconvened and determined that all three (3) proposals received met all minimum qualification requirements and were further evaluated in accordance with the following Phase II- Technical Evaluation criteria and weights:

- |                                                  |            |
|--------------------------------------------------|------------|
| • Qualification and Experience of the Firm/Team  | 40 percent |
| • Qualifications and Experience of Key Personnel | 25 percent |
| • Management Plan/Approach                       | 20 Percent |
| • Price                                          | 15 Percent |

The evaluation criteria are appropriate and consistent with criteria developed for similar third party administration services’ procurements. Several factors were considered in developing these weights, giving the greatest importance to qualification and experience of the firm/team.

### **Qualifications Summary of Firms**

#### **Carl Warren & Company, LLC**

Since 1944, Carl Warren & Company, LLC (Carl Warren) has been providing third party administration services specializing in property and casualty claims management, subrogation recovery, and litigation management for the public and private sectors. It currently provides third party administration services to over 150 public sector clients, including Metro. Other municipal/transit clients include the Long

Beach Transit, San Bernardino County Transportation Authority, San Joaquin Regional Transit District and the San Mateo County Transit District/Peninsula Corridor Joint Powers Board (PCJPB).

**CorVel Enterprise Comp Inc.**

CorVel Enterprise Comp, Inc., incorporated in 2006, is located in Fort Worth, Texas. It is a provider of risk management solutions for the workers’ compensation, auto, health and disability management industries. Public entity transportation clients include the State of Illinois, Illinois Tollway, State of Tennessee, Salt Lake City Corporation, Access Services City of Fort Collins, Pioneer Railroad Services, Inc., Matheson Trucking and State of Vermont.

**George Hills Company, Inc.**

George Hills Company, Inc., founded in 1954, is headquartered in Wildomar, California. It provides liability and property claims administration and litigation management services to the public sector and private insurance carriers. Public transit clients include Metrolink, Bay Area Rapid Transit, Golden Gate Bridge Highway and Transportation District, Soltrans, SMART and fixed route bus systems of cities that the firm administers.

Evaluations were conducted from June 26, 2021 through July 19, 2021. At the conclusion of the evaluation process, Carl Warren was determined to be the top ranked firm.

The following is a summary of the PET scores:

| <b>1</b>  | <b>Firm</b>                                    | <b>Average Score</b> | <b>Factor Weight</b> | <b>Weighted Average Score</b> | <b>Rank</b> |
|-----------|------------------------------------------------|----------------------|----------------------|-------------------------------|-------------|
| <b>2</b>  | <b>Carl Warren &amp; Company, LLC</b>          |                      |                      |                               | <b>1</b>    |
| <b>3</b>  | Qualification and Experience of the Firm/Team  | 89.18                | 40.00%               | 35.67                         |             |
| <b>4</b>  | Qualifications and Experience of Key Personnel | 89.80                | 25.00%               | 22.45                         |             |
| <b>5</b>  | Management Plan/Approach                       | 82.65                | 20.00%               | 16.53                         |             |
| <b>6</b>  | Price                                          | 100.00               | 15.00%               | 15.00                         |             |
| <b>7</b>  | <b>Total</b>                                   |                      | <b>100.00%</b>       | <b>89.65</b>                  |             |
| <b>8</b>  | <b>George Hills Company, Inc.</b>              |                      |                      |                               | <b>2</b>    |
| <b>9</b>  | Qualification and Experience of the Firm/Team  | 81.68                | 40.00%               | 32.67                         |             |
| <b>10</b> | Qualifications and Experience of Key Personnel | 73.32                | 25.00%               | 18.33                         |             |
| <b>11</b> | Management Plan/Approach                       | 74.65                | 20.00%               | 14.93                         |             |
| <b>12</b> | Price                                          | 72.87                | 15.00%               | 10.93                         |             |
| <b>13</b> | <b>Total</b>                                   |                      | <b>100.00%</b>       | <b>76.86</b>                  |             |

| 14 | Firm                                           | Average Score | Factor Weight  | Weighted Average Score | Rank     |
|----|------------------------------------------------|---------------|----------------|------------------------|----------|
| 15 | <b>CorVel Enterprise Comp, Inc.</b>            |               |                |                        | <b>3</b> |
| 16 | Qualification and Experience of the Firm/Team  | 64.18         | 40.00%         | 25.67                  |          |
| 17 | Qualifications and Experience of Key Personnel | 52.88         | 25.00%         | 13.22                  |          |
| 18 | Management Plan/Approach                       | 70.65         | 20.00%         | 14.13                  |          |
| 19 | Price                                          | 98.60         | 15.00%         | 14.79                  |          |
| 20 | <b>Total</b>                                   |               | <b>100.00%</b> | <b>67.81</b>           |          |

### C. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based on adequate price competition, independent cost estimate (ICE), price analysis, and technical analysis.

|    | Proposer Name                 | Proposal Amount | Metro ICE    | Negotiated Amount |
|----|-------------------------------|-----------------|--------------|-------------------|
| 1. | Carl Warren & Company, LLC    | \$25,926,720    | \$26,365,000 | \$25,926,720      |
| 2. | CorVel Enterprise Comp., Inc. | \$35,568,958    |              |                   |
| 3. | George Hills Company, Inc.    | \$26,288,937    |              |                   |

### D. Background on Recommended Contractor

The recommended firm, Carl Warren & Company, LLC, (Carl Warren) is headquartered in Anaheim, California. It has been handling and managing the claims process for California public entities for the past 47 years. It administers more than 150 public sector client's liability programs, providing claims & litigation management and adjusting services for all types of public entity claims. Public entity claims that Carl Warren currently handles range from employment practices liability, property damage, premises liability, sexual harassment and misconduct, inverse condemnation, jail/prison, professional, police, errors and omission to slip/trip falls, transit (rail, bus, ferry), and automobile throughout California. It also provides subrogation services to the public sector.

The Carl Warren team includes a DBE firm that has been providing field investigative services for California public entities for the past 27 years. The DBE firm shall assist in securing scene photographs, canvassing witnesses and surveillance cameras and conducting interviews. The firm has four (4) senior investigators that have a combined



average of 17 years' experience investigating public entity transportation accidents in Los Angeles County.

Carl Warren has been providing public liability/property damage (PL/PD) third party claims administration services to Metro since 2011 and performance has been satisfactory.

**DEOD SUMMARY**

**PUBLIC LIABILITY/PROPERTY DAMAGE THIRD PARTY CLAIMS  
ADMINISTRATION SERVICES / PS75821000**

**A. Small Business Participation**

The Diversity and Economic Opportunity Department (DEOD) established a 20% Disadvantaged Business Enterprise (DBE) goal for this solicitation. Carl Warren & Company met the goal by making a 20% DBE commitment.

|                            |                |                                  |                |
|----------------------------|----------------|----------------------------------|----------------|
| <b>Small Business Goal</b> | <b>20% DBE</b> | <b>Small Business Commitment</b> | <b>20% DBE</b> |
|----------------------------|----------------|----------------------------------|----------------|

|                         | <b>DBE Subcontractors</b> | <b>Ethnicity</b> | <b>% Committed</b> |
|-------------------------|---------------------------|------------------|--------------------|
| 1.                      | Sam Hooper and Associates | African American | 20%                |
| <b>Total Commitment</b> |                           |                  | <b>20%</b>         |

**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. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.