



# EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b>		DocuSigned by: <i>Michael Jones</i> 47000790F2D7463...	<b>GENERAL MANAGER ACTION REQ'D:</b>		
<b>DATE:</b> 1/10/2025		1/16/2025	<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Hoa Sin <b>Dept:</b> Civil Rights	<b>General Counsel</b>	<b>Controller/Treasurer</b>	<b>District Secretary</b>	<b>BARC</b>	
DocuSigned by: <i>Hoa Sin</i> A7BE045579764E7...	DocuSigned by: <i>Amelia Sandoval</i> 2528C067C44147D...	Signed by: <i>Steph Brach</i> 7D9A7C6E7348456...		DocuSigned by: <i>D. Melikian</i> 8D65AF8B6F63484...	
<b>Signature/Date:</b> 1/14/2025	1/14/2025 [ ]	1/16/2025 [ ]	[ ]	1/16/2025 [ ]	

## Award of Agreement No. 6M5219 to Conduct a Disparity Study in Support of the District's DBE Program

**PURPOSE:** To obtain Board authorization for the General Manager to Award Agreement No. 6M5219 to BBC Research and Consulting to conduct a disparity study supporting the District's Disadvantaged Business Enterprise (DBE) Program.

**DISCUSSION:** All Federal Transit Administration (FTA) recipients are required to ensure that any use of race conscious measures to obtain DBE participation is narrowly tailored and supported by demonstrable evidence of discrimination. A disparity study investigates whether or not discrimination exists in the market area and to what extent discrimination exists in BART contracting. Based on a 2005 9th Circuit Court of Appeals ruling, all U.S. Department of Transportation grantees within the 9th Circuit, such as BART, are required to prepare a disparity study to justify the use of race conscious measures in their respective DBE Program. The District last conducted a disparity study in 2016 and the findings of this study were adopted by the Board in 2017. In order to ensure that the District's DBE Program is legally defensible, it is necessary to update its previous disparity study.

Advance Notice to Proposers was issued on November 25, 2024, to 10 firms and 182 certified Small Businesses via B2Gnow Compliance.

On November 25, 2024, the District advertised Request for Proposals (RFP) No. 6M5219, Conduct a Disparity Study in Support of the District's DBE Program, in 10 publications, including minority-targeted publications. The RFP was issued to 17 firms and a virtual pre-proposal meeting and networking session were held on December 9, 2024, with 11 prospective proposers attending. One (1) addendum and three (3) Question & Answer Response letters were issued for the RFP over the course of the advertisement.

On December 24, 2024 proposals were received from four (4) firms: BBC Research and Consulting, Keen Independent, MGT, and Miller 3 Consulting. Subsequently all of the proposals were evaluated by a Selection Committee chaired by Contract Administration with representatives from the Office of Civil Rights. All four proposals were determined to be responsive and have met the Technical Requirements of the RFP. In accordance with the provisions of the RFP, the selection of Consultant to provide the services is based on the Best Value Method.

Virtual oral interviews were conducted with the four proposers on January 8, 2025 and January 10, 2025.

Following the oral interviews, the Selection Committee combined the qualification/technical scores and the oral interview scores, and based on its Best Value analysis, determined that BBC Research and Consulting provided the best overall value to the District.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights (OCR) set a 5% Small Business Prime Preference for this Agreement for Small Businesses (SB) certified by the California Department of General Services (DGS). It was determined that there were no certified Small Businesses certified by the DGS among the responsive Proposers and, therefore, the Small Business Prime Preference is not applicable.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Agreement are 8.4% for MBE's and 5.7% for WBE's. The Office of Civil Rights has determined that BBC Research and Consulting has exceeded both the MBE and WBE Availability Percentages for this Agreement at 31.1% for MBEs and 19.4% for WBEs.

The Office of the General Counsel will approve the Agreement as to form.

**FISCAL IMPACT:** The estimated cost to complete the disparity study is \$600,000, spread across FY25 and FY26. The Office of Civil Rights' existing non-labor budget will absorb the cost in FY25 under Cost Center 1304391, Account #681300, and a FY26 request of \$300,000 will be submitted for budget approval. If approved, additional funds will be added to the Office of Civil Rights' non labor budget, otherwise, the costs will be absorbed in their FY26 budget.

**ALTERNATIVES:** The alternative is to reject all proposals and solicit new proposals. Reissuing the RFP would delay the results of the disparity study and is not likely to result in additional proposals. Further delay may also require additional funding to be allocated in

FY26 and delay the District's submission of the Triennial DBE goal to FTA on August 1, 2025.

**RECOMMENDATION:** Adopt the following motion.

**MOTION:** The General Manager is authorized to Award Agreement No. 6M5219 to BBC Research and Consulting to conduct a disparity study in support of the District's DBE Program for an amount not to exceed \$600,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.