



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>17 July 2019</i> <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/21/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gregory Shivy Dept. Maintenance and Engineering Signature/Date: <i>7/11/19</i>	General Counsel <i>[Signature]</i> <i>7/12/19</i> [ ]	Controller/Treasurer <i>[Signature]</i> <i>7/11/19</i> [ ]	District Secretary [ ]	BART <i>[Signature]</i> <i>7.15.2019</i> [ ]

### Award of Agreement No. 6M3426 Production Rail Profiling Services

#### PURPOSE:

To request Board authorization for the General Manager to award Agreement No. 6M3426 for Production Rail Profiling Services to Loram Maintenance of Way, Inc., Hamel, MN, in an amount not to exceed \$12,636,749.00.

#### DISCUSSION:

Production rail profiling optimizes the wheel rail interface by reshaping the rail head to match the shape of the wheels. This results in reduced noise, enhanced rider comfort, and cost savings from the reduced wear on wheels and rails. Additionally the profiling will reduce rail corrugation waves on the rail head surface which is the primary cause noise complaints. This Agreement will remain in place for a duration of up to 3 years, while the District owned rail grinders are being upgraded and repaired.

Request for Proposals (RFP) No. 6M3426 was issued to engage a firm to conduct production rail profiling services.

Advance Notice to Proposers was e-mailed on December 24, 2018, to four (4) prospective proposers. Due to the specialized nature of this work there were only four qualified proposers. RFP No. 6M3426 was advertised on December 21, 2018, in several Bay Area newspapers and publications and posted to the BART procurement portal. A Pre-Proposal Conference was held on January 7, 2019 and was attended by representatives from two (2) firms and BART staff. One (1) proposal was received on March 12, 2019.

Loram Maintenance of Way, Inc. ("Loram"), is the sole proposer. The Technical Proposal from Loram was opened on March 14, 2019. After review of the proposal submitted by Loram it was determined that Loram had taken significant exceptions to the Agreement.



Negotiations related to those exceptions were held and the exception issues were ultimately resolved. The price proposal was opened and evaluated on May 15, 2019. In accordance with the RFP, the selection is based on the lowest-priced technically acceptable proposal methodology. The Price proposal from Loram Maintenance of Way, Inc. is \$12,636,749.00 and was the only proposal received.

The Engineer's estimate was \$8,705,187.60. Loram's \$12,636,749.00 proposal is above Engineer's estimate due to increasing strength of the economy and higher cost to modify the equipment to meet BART's 66" wide gage track.

The Source Selection Committee determined that the Price Proposal submitted by Loram Maintenance of Way, Inc., was fair and reasonable and therefore recommends Loram Maintenance of Way, Inc., for award.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 7% Local Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services ("DGS") and verified as Local (i.e., located in Alameda, Contra Costa or San Francisco counties) by the District. It was determined that there were no certified Local Small Businesses certified by the DGS among the responsive Bidders and, therefore, the Local Small Business Prime Preference is not applicable.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Agreement are 5.5% for Minority Business Enterprises ("MBE"s) and 2.8% for Women Business Enterprises ("WBE"s). Loram will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-Discrimination Program for Subcontracting do not apply.

#### **FISCAL IMPACT:**

Funding in the amount of \$12,636,749.00 to award Agreement No. 6M3426, Production Rail Profiling Services is included in the total budget for FMS#15CQ017 Rail Reprofitting Districtwide. The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following:

Source	Fund Description	Total
BART	Measure RR General Obligation Bond	\$22,075,180.00
	Total	\$22,075,180.00

As of June 7, 2019, \$22,075,180.00 is the total budget for this project. BART has expended \$1,105,023.00, committed \$107,371.00 and reserved \$3,093,700.00 to date for other actions. This action will commit \$12,636,749.00, leaving an available fund balance of \$5,132,336.00



in fund sources for this project.

The office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. This action is not anticipated to have any Fiscal Impact on unprogrammed District Reserves.

**ALTERNATIVES:**

Reject this Proposal and re-advertise the RFP. Because only one (1) bid was received, it is unlikely that the new Proposal will lead to increased competition or lower prices. Delaying the project start will potentially cost the District more in the long term for wheel replacement.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The General Manager is authorized to award Agreement No. 6M3426 to Loram Maintenance of Way, Inc., to provide Production Rail Profiling Services for a one (1) year base period with (2) two, (1) one-year options, for an amount not to exceed \$12,636,749.00, pursuant to notification to be issued by the General Manager.