



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pomeroy</i> 18 July 2019		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the E&O Committee		
DATE: 2/21/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Denise McDonald Dept: PD&C - Stations <i>Denise McDonald</i> Signature/Date: 7/15/2019	General Counsel <i>[Signature]</i> 7/15/19 [ ]	Controller/Treasurer <i>[Signature]</i> 7/16/19 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 7/17/19 [ ]

### Award of Contract No. 07EA-120, 19th St Oakland Station Modernization Project

#### PURPOSE:

To obtain Board's authorization for the General Manager to award Contract No. 07EA-120, 19<sup>th</sup> St Oakland Station Modernization Project, to Proven Management, Inc., of Oakland, CA.

#### DISCUSSION:

The Work of this Contract is part of the District's Station Modernization Program. It will provide for the reconfiguration of the 19th Street Station concourse area and consolidation of three existing paid areas into one paid area and enclosing the existing elevator into the paid area. In addition, the Work will involve the installation of a new elevator between the platform and the paid area of the concourse, installation of new five-foot high fare barriers, LED lighting, replacement of the current primary station agent booth, addition of bike infrastructure improvements and renovation and reopening of the public restrooms. The Contract also includes an option work item ('Option 1') for the painting of wall murals on walls adjacent to the trackways.

On November 19, 2018, an Advance Notice to Bidders was emailed to 297 prospective bidders, including 22 Plan Rooms. The Contract was advertised and posted to the BART Procurement Portal on November 20, 2018. A total of 52 firms downloaded copies of the Bid Documents. A Pre-Bid meeting and Jobsite tour was held on December 3, 2018 with eight (8) prospective Bidders attending. Five (5) addenda to the Contract were issued. Two (2) Bids were received and publicly



opened on February 26, 2019. The Bids received, and the Engineer's Estimate are shown below:

<b>BIDDER /</b>	<b>BASE</b>	<b>OPTION 1</b>	<b>TOTAL</b>
<b>LOCATION</b>	<b>BID</b>	<b>BID</b>	<b>BID PRICE</b>
Proven Management, Inc	\$32,691,000	\$150,000	\$32,841,000
Oakland, CA			
Clark Construction	\$33,446,000	\$45,800	\$33,491,800
California, LP			
Engineer's Estimate	\$20,512,154	\$117,678	\$20,629,832

After review by District staff, the apparent low Bid submitted by Proven Management, Inc. has been determined to be fair and reasonable and responsive to the solicitation. The Total Bid Price of \$32,841,000 is 59% above the Engineer's Estimate. The Engineer's Estimate did not sufficiently capture the effects of tariffs on commodities, shortage of qualified labor in several trades, and current market conditions. The combination of these factors ultimately resulted in the large variance between the Engineer's Estimate and the Bids received. Since the solicitation resulted in only two Bids, the Bid prices received represent a less competitive Bidding environment. With the two Bidders' Bid prices being within 2% of each other, the Total Bid Price submitted by the low Bidder has been deemed fair given the current market conditions. A review of Proven Management Inc.'s business experience and financial capabilities has resulted in a determination that the Bidder is responsible.

District staff has determined that this work is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations, Section 152725(a), because it consists of modernization of an existing facility to meet an increase in passenger service. In addition, since the Contract is federally-funded, it is subject to the provisions of the National Environmental Policy Act (NEPA). The federal funding agency, the Federal Transit Administration (FTA), has concurred with BART that the project qualifies under a categorical exclusion from NEPA requirements under 23 CFR Part 771.118 (c)(5) because it involves the promotion of transportation accessibility and safety associated



with the implementation of project improvements.

This Contract was advertised pursuant to the District's Disadvantaged Business Enterprise ("DBE") Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were Small Business Entity (SBE) subcontracting opportunities; therefore, an SBE participation goal of 17% was set for this Contract. The low Bidder, Proven Management, Inc., committed to subcontracting 18.15% to SBEs. The Office of Civil Rights has determined that Proven Management, Inc. has met the SBE participation goal set for this Contract.

### **FISCAL IMPACT:**

Funding in the amount of \$32,691,000 for Contract 07EA-120 is included in the project budget 07EA011, 19<sup>th</sup> St Oakland Station Modernization Project. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table lists the funding assigned to project 07EA011 and is included to reflect the funding history against spending authority. Funds needed to meet this request will be expended from the following:

<b>FUND NO.</b>	<b>FUND DESCRIPTION</b>	<b>SOURCE</b>	<b>AMOUNT</b>
3610	FTA CA-2018-013-00 Tiger Grant	Federal	\$6,321,688
535A	FY2010-11 PROP 1B-PTMISEA	State	\$8,417,132
535B	FY14-15 Prop 1B PTMISEA Fund	State	\$4,874,930
802A	2017A Measure RR GOB	Local	\$11,600,000
8603	FY19 Cap Alloc Station & Access	BART	\$1,018,000
5414	State Trans. Improvement Prog. STIP	State	\$3,726,000
<b>TOTAL</b>			<b>\$35,957,750</b>

As of July 11, 2019, \$35,957,750 is the total budget for this project. BART has expended \$356,106 and \$172,527 has been committed for other actions. This action will commit \$32,691,000 leaving an available fund balance of \$2,738,117 for this



project.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

The project has additionally been allocated \$10M in Alameda County Measure BB funds from the special, "Named Capital" category that has been set aside for BART. The Measure BB funds will be reflected in the project budget upon execution of a funding agreement.

**ALTERNATIVES:**

The Board may elect to reject all bids and authorize staff to rebid the Contract. The FTA would need to approve the extension and rebidding of the Contract. Rebidding the Contract will result in additional time and cost to the District with no assurance that it will result in a lower Bid price.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 07EA-120, 19<sup>th</sup> St Oakland Station Modernization Project, to Proven Management, Inc for the Bid Price of \$32,691,000 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and FTA requirements related to protests.

The General Manager is further authorized to exercise Option 1, Track Wall Mural Painting, subject to certification by the Controller/Treasurer that funding is available.