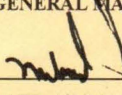
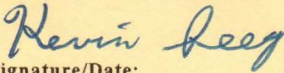
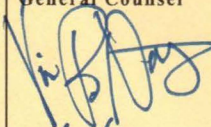
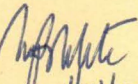





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  5/20/2020		GENERAL MANAGER ACTION REQ'D: Transmit General Counsel Memo and Procurement Report to the Board		
DATE: 4/2/2020		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Reeg Dept: Maintenance and Engineering  Signature/Date: 4/14/2020	General Counsel  5/15/20 []	Controller/Treasurer  4/14/2020 []	District Secretary []	BARC  5.19.2020 []

To Request Board Authorization to Award Contract 15CQ-120 - Oakland Shops Geometry Vehicle Storage and Spur Track

PURPOSE:

To request Board authorization for the General Manager to award Contract No.15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track, to DMZ Builders of Concord, CA for the total bid price of \$6,435,000.

DISCUSSION:

The District is currently in the process of securing a new specialty Geometry Vehicle rail car (Geo Car), under a separate contract. That car, when delivered, will be stored at the Oakland Shops (OKS) yard on 5th Avenue near East 8th Street in Oakland. This contract provides for the construction of a secure storage facility with an inspection pit to allow calibration of the Geo Car. A turnout installed on the Earthquake Safety Project (ESP) spur track allows for rail access to the OKS Yard and the rest of the system. The new G Spur will lead into the Geo Car storage facility in the parking lot of OKS. The scope of work for this project also consists of site improvements and utility construction.

On December 20, 2019, the District provided an Advance Notice to ninety-eight (98) prospective Bidders who received the electronic version of the Contract book, including forms to submit, from the District's Vendor Portal. Plans were sent to six (6) Plan Rooms.

On December 23, 2019, the Contract was advertised in local publications. A total of forty-one (41) firms downloaded the Contract Documents from the District's Portal. A Pre-Bid Meeting and site tour was conducted on January 16, 2020 with four prospective bidders. Two addendums were issued during the bid period.

A total of three bids were received and publicly opened on March 17, 2020. Tabulation of the bids, including the Engineer's Estimate is indicated as follows:

- | | |
|-----------------------------------|-----------------------------|
| 1. Thompson Builders, Novato, CA | \$6,336,360 (nonresponsive) |
| 2. DMZ Builders, Concord, CA | \$6,435,000 |
| 3. ProVen Management, Oakland, CA | \$8,627,958 |

Engineers Estimate:	\$4,432,371
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District staff has performed a review to determine why the low bid was 45% higher than the Engineer's Estimate. Two main issues were discovered. First, the cost data used was not escalated for the Bay Area's high construction inflation in the time between cost data and bid opening. This amounts to a 12% increase.

Secondly, median cost data from typical commercial construction was utilized to calculate the Engineer's Estimate. District staff believes the Engineer's Estimate should have used cost data from the upper range of historical values to account for the difficulties working within an active Oakland Shops facility. This amounts to an additional 30% increase.

Lastly, a small scope of work (3%) was added by addendum but not added to the Engineer's Estimate.

The proximity of the two low bidders (within 1.6%) indicates that the contract scope was clear.

District staff determined that Thompson Builders, the apparent low bidder, was nonresponsive due to material defects in its bid. As a result, DMZ Builders was determined to be the lowest responsive bidder. DMZ's total bid price of \$6,435,000 was found to be fair and reasonable based upon the independent cost estimate and a market survey of qualified contractors.

NON-DISCRIMINATION PROGRAM

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 20.3% for Minority Business Enterprises ("MBEs") and 14.1% for Women Business Enterprises ("WBEs"). The Bidder DMZ Builders committed to 45.3% MBE and 0.0% WBE participation. The Bidder DMZ Builders did not meet the WBE Availability Percentage; therefore, the Bidder DMZ Builders was requested to provide the Office of Civil Rights with supporting documentation to determine if it had discriminated on the basis of gender. Based on the review of the information submitted by the Bidder DMZ Builders, the Office of Civil Rights found no evidence of discrimination.

SMALL BUSINESS PROGRAM

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.

FISCAL IMPACT:

Funding in the amount of \$6,435,000 for Contract No. for 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track, is included in the total project budget for 15CQ007, Oakland Yard Track Projects.

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:

Proposed Funding

F/G 802A.— Measure RR GOB Issued #1:	219,721
F/G 802B – Measure RR GOB Issued #2:	9,764,331
TOTAL:	9,984,052

As of April 10, 2020, \$9,984,052 is the total budget for this project. BART has expended \$527,735, committed \$490,263, and reserved \$0 to date. This action will commit \$6,435,000, leaving an available fund balance of \$2,531,054 in these fund sources for this project.

The Office of 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 the Bids and re-advertise the Contract. This is not likely to result in increased competition or lower prices and would delay providing a protected shelter when the Geo Car arrives.

RECOMMENDATION:

On the basis of analysis by Staff and certification by the Controller-Treasurer that the funds are available for this purpose, it is recommended that the Board adopt the following motion.

MOTION:

The General Manager is authorized to award Contract No. 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track, to DMZ Builders of Concord, California for the Bid Price of \$6,435,000, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's Protest Procedures.