



Agenda Item No. 3

To: Building and Operating Committee/Committee of the Whole Meeting of July 23, 2009

From: James P. Swindler, Deputy General Manager, Ferry Division
Christian N. Stark, Marine Projects Manager, Ferry Division
Celia G. Kupersmith, General Manager

Subject: **APPROVE ACTIONS RELATIVE TO THE AWARD OF SOLE SOURCE CONTRACT NO. 2009-FT-12, DIESEL ENGINES AND DRIVE TRAIN & INSTALLATION SUPPORT SERVICES FOR THE M.V. SNOHOMISH (M.V. NAPA) AND THE M.V. CHINOOK FERRIES, TO VALLEY POWER SYSTEMS NORTH, INC.**

Recommendation

The Building and Operating Committee recommends that the Board of Directors approve the following actions relative to the award of Sole Source Contract No. 2009-FT-12, *Diesel Engines and Drive Train & Installation Support Services for the M.V. Snohomish (M.V. Napa) and the M.V. Chinook Ferries*:

1. Authorize a sole source procurement and award of Contract No. 2009-FT-12 to Valley Power Systems North, Inc. of Hayward, California in the amount of \$7,214,067.51, subject to receipt of a Buy America Regulation waiver from the Federal Transit Administration; and,
2. Authorize a contingency fund in an amount of \$800,000; and,
3. Authorize the General Manager to approve change orders to Contract No. 2009-FT-12, up to the maximum of the available project contingency, with the understanding that any individual change order exceeding \$100,000 will require the concurrence of the President of the Board and the Building and Operating Committee Chair,

with the understanding that requisite funds are available in the FY 09/10 Ferry Transit Division Capital Budget.

Summary

The District has recently purchased two vessels, the *M.V. Chinook & M.V. Napa (formerly the M.V. Snohomish)*, from Washington State Ferries (WSF). The vessels were built in 1998-1999. The District intends to refurbish both vessels, in particular repowering them with new engines that exceed Federal and State emission standards, as required by Board policy. The

environmentally superior engine type that the Board has directed staff to install on the new ferries is referred to as “Tier 2 Minus 20%.”

District staff has reviewed all available engine types and has concluded that the MTU 12V4000M73 engine is the only engine currently available that both meets the District’s power rating requirements and also satisfies current California Air Resources Board emissions standards. The similarity of the 12V4000M73 engine to other engines installed in the District’s fleet will lower the District’s overhead burden by eliminating additional maintenance, spare parts, and training requirements.

The engine manufacturer, MTU, does not allow its distributors to compete with each other. Buyers must purchase engines only from a single authorized regional distributor. The MTU distributor in the District’s territory is Valley Power Systems North, Inc. (VPSNI) of Hayward, California.

The total cost to purchase the eight (four per vessel) engines, drive shafts, gearboxes, extended warranties, and installation support services from VPSNI is \$7,214,067.51. The price quoted to the District is below the manufacturer’s published list price on the engines and the gearboxes. District staff has determined that this price schedule is in line with what VPSNI has charged other public entities. Staff has therefore determined that VPSNI’s price is fair and reasonable.

Because only a single engine type is possible, and because the engine is only available from a single source, staff, with concurrence of the District’s Attorney, has determined that this procurement meets the requirement for a sole source procurement, as set forth in the District’s Procurement Manual and consistent with federal regulations. In addition, State law permits an exception from the competitive bidding requirement when such a process would be unavailing and not in a public agency’s best interests. Because VPSNI is uniquely able to provide the necessary work, a competitive bidding process would serve no useful purpose here.

The District will need to pay tax on the new engines, as well as reimburse travel expenses incurred in installation support services. In addition, engine alarm and monitoring equipment will need to be installed at an as-yet undetermined cost. These costs are not included in the base contract value. Staff is therefore requesting a contract contingency be established in the budget for the payment of use tax and any additional required services in the amount of \$800,000, approximately 11% of the base contract. District procurement policy requires Board approval for change orders that cumulatively exceed 10% of the Contract, or when any single change order exceeds \$50,000. However, the Board has approved the delegation of expanded change order authority to the General Manager for major projects. On a contract of this size, it would not be uncommon for change orders to exceed \$50,000, and it would be desirable to be able to administer change orders promptly to avoid delays. Staff therefore recommends that the Board delegate authority to the General Manager to execute any necessary change orders within the requested contingency, with the understanding that individual change orders in excess of \$100,000 require the prior concurrence of the Board President and the Chair of the Building and Operating Committee. Change orders will be reported to the Finance-Auditing Committee in accordance with existing practice.

Fiscal Impact

This Contract and the proposed contract contingency are included in the FY 09/10 Ferry Transit Division Capital Budget as follows:

- Purchase and Rehabilitate *M.V. Snohomish (M.V. Napa)* at a total cost of \$11,705,000 and is funded with \$10,531,285 Federal Transit Administration funds, \$1,170,313 State I-Bond funds, and \$3,403 District funds (90% FTA / 10% State / 0% District).
- Purchase and Rehabilitate *M.V. Chinook* at a total cost of \$11,705,000 and is funded with \$7,955,185 Federal Transit Administration funds, \$946,010 State I-Bond funds, and \$2,803,806 District funds (68% FTA / 8% State / 24% District).

Sufficient funds are available in the respective capital project budgets as listed above to finance the award of the sole source procurement in the amount of \$7,214,067.51 and authorize a contingency budget of \$800,000.