



Agenda Item No. 1

To: Building and Operating Committee/Committee of the Whole
Meeting of December 12, 2008

From: James P. Swindler, Deputy General Manager, Ferry Division
Celia G. Kupersmith, General Manager

Subject: **APPROVE ACTIONS RELATIVE TO CONTRACT NO. 2009-FT-2, TWO
DIESEL GENERATORS FOR THE M.S SAN FRANCISCO**

Recommendations:

The Building and Operating Committee recommends that the Board of Directors approve the following actions relative to Contract No. *2009-FT-2, Two Diesel Generators for the M.S. San Francisco*:

1. Reject the sole bid submitted by Bay Marine Boatworks, Inc. of Richmond, California; and,
2. Find and determine that the equipment may be purchased at a lower price on the open market, and authorize the General Manager to purchase up to three generator sets at a price not greater than the Manufacturer's Suggested List Price of \$39,551 per generator set, without further advertisement or issuance of bids, as consistent with State law,

with the understanding that this project is fully grant funded and included in the FY 08/09 Ferry Division Capital budget at a total cost of \$105,400.

Summary

The District requires new generators for the M.S. San Francisco and M.V. Del Norte. Consistent with State law and the District's policy, on October 7, 2008, the District issued an Invitation For Bids for the generators. On November 4, 2008, the District received a sole bid from Bay Marine Boatworks, Inc. of Richmond CA, for \$41,955.50 per generator set. Staff conducted a price analysis and determined that this price was higher than the manufacturer's suggested list price of \$39,551 per generator set. Staff contacted another vendor who indicated that while it had not responded to the Invitation For Bids, it could nevertheless supply the needed generators at prices lower even than the manufacturer's suggested list price. Other vendors may also exist that can provide the needed generators at lower prices. It is not known why these firms did not respond to the Invitation For Bids.

Staff has determined that Bay Marine Boatworks, Inc.'s bid price was neither fair nor reasonable and recommends rejection of its bid.

After rejecting bids received through a properly issued competitive bid, Public Contract Code Section 20917 allows the District's Board to declare, by a two-thirds vote of all of its members that "in its opinion, the equipment supplies, or materials may be purchased at a lower price in the open market[.]" Upon such a declaration, the statute then allows the District to "proceed to purchase the equipment, supplies, or materials in the open market without further observance of the provisions requiring contracts, bids, or advertisement."

Staff, in Consultation with the District's Attorney, believe that purchasing the generators in the open market will provide the District with the best price, and also allow the District to avoid unnecessary time and cost involved with re-issuance of an Invitation For Bids.

The District has several vessels that are in need of new diesel generator sets. The M.S. San Francisco and the M.V. Del Norte are currently slated to have generators replaced as part of the Carl Moyer Program.

Fiscal Impact

This project is included in the FY 08/09 Ferry Division Capital Budget at a total cost of \$105,400 and is funded with \$96,900 Carl Moyer program grant funds and \$8,500 Federal Transit Administration grant funds. No additional funding for this project is required at this time.