

**MEMORANDUM**

July 5, 2019

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Victor Makras  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request Authorization to advertise for Request for Proposals/Request for Qualifications for Contract No. 2819, Construction Manager/General Contractor for pre-construction services for the Mission Bay Ferry Landing Project at 16<sup>th</sup> Street and Terry Francois Boulevard.

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

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**EXECUTIVE SUMMARY**

The Mission Bay Ferry Landing (MBFL or the Project) will provide critical regional ferry service to and from the Mission Bay neighborhood, one of the fastest growing neighborhoods in San Francisco, as well as the Dogpatch, Potrero Hill, Pier 70, and the Central Waterfront neighborhoods. The MBFL will provide the capability to berth two ferry boats simultaneously and will be located on Terry Francois Boulevard approximately 100 feet south of 16<sup>th</sup> Street (Refer to the attached General Site Plans, Exhibit 1, 2, and 3).

Port staff is recommending Project construction to start by June 1, 2020, in order to meet schedule constraints for regulatory pile driving and dredging in-water work time limits as well as funding constraints requiring the expenditure of some project funding by August 2020 which will be explained in detail later in this report.

To maintain this schedule, Port staff requests the Port Commission's authorization to solicit "pre-construction services" by advertising a Request for Proposals (RFP)/Request for Qualifications (RFQ) for a qualified Construction Manager/General Contractor (CM/GC) for the MBFL as detailed in this report. This proposed contract solicitation will utilize the CM/GC contracting process allowed under Administrative Code Section 6.68 to expedite and create efficiencies for the "pre-construction" phase of the Project. The estimated maximum cost for these initial CM/GC services is \$750,000.

**THIS PRINT COVERS CALENDAR ITEM NO. 12A**

The CM/GC project delivery method encourages collaboration and innovation amongst the project team and a qualified construction contractor to develop a guaranteed maximum price (GMP). If the negotiated GMP meets available funding and expectations, the proposed contract would be later awarded at that amount to the contractor as a construction contract for a later “Construction” phase. Under this process, the Port would not be obligated to award a construction contract to the selected CM/GC if the GMP amount does not meet the Port’s expectations and needs.

## **STRATEGIC PLAN**

This Project supports the goals of the Port’s Strategic Plan as follows:

- **Stability** - Maintain the Port’s financial strength by maximizing the value of Port property and increasing revenue. Attract and retain tenants that build an economically viable Port.
- **Livability**: Increase the proportion of funds spent by the Port with LBE, and micro-LBEs, and proactively work with transportation agency partners to ensure integrated transportation plans to ease traffic congestion on the waterfront.
- **Sustainability**: Implement leasing and development policies that support the City’s climate goals and minimize carbon emissions.
- **Economic Vitality**: Expand the system of active water berths for visiting transportation vessels.

## **BACKGROUND**

The Port and San Francisco Water Emergency Transportation Authority (WETA) are pursuing the development of the MBFL to create a hub for ferry service into San Francisco that will address regional transportation demand generated by current and future development near Mission Bay. A water taxi landing is also part of the proposed Project design and permitting; however, a funding source has not been identified for this aspect. The water taxi landing will not be part of this proposed contract solicitation.

The ferry landing would sit within a half mile of approximately 11,000 new housing units, 7 million square feet of new office and commercial space, over 1 million square feet of new retail space and 70 acres of public open space. Additionally, the ferry landing location is planned within one block from the Muni T-Third line, which is currently undergoing improvements, including an extension to San Francisco’s Chinatown neighborhood. The ferry landing will be within easy walking distance to the UCSF Mission Bay hospital and campus, to San Francisco’s related life sciences community, and the new Chase Center (the new home of the Golden State Warriors).

A ferry terminal located in the Mission Bay section of San Francisco has been included in plans for the area dating back to 2004. The Port of San Francisco, working with WETA, conducted a planning study to analyze several candidate locations for a Mission Bay Ferry Terminal in early 2015. The Port Commission adopted a Memorandum of Understanding (MOU) between the Port and WETA in December 2016. The MOU

defined roles and responsibilities for the planning and ultimate design of a potential Mission Bay ferry facility. Staff intends that a subsequent MOU, subject to Port Commission approval, will determine the long-term ownership, operation and maintenance responsibilities.

To date, the Port and City have funded all planning and development activities – a total expenditure of nearly \$7 Million – with WETA providing in-kind staff time as the project has progressed through the development process.

In 2016, the Port Commission authorized Port staff to award a contract to the engineering group, COWI/OLMM Joint Venture (referred to herein as COWI) for design and permitting.

On May 28, 2019, Port staff presented information to the Port Commission regarding alternate contracting strategies, including the CM/GC contracting method, allowed under the San Francisco Administrative Code.

On June 9, 2019, Port staff presented an informational report to the Port Commission regarding the MBFL. This report introduced schedule and risks for delays, steps to secure funding sources from Regional Measure 3 (RM3) and private contributions as well as the CM/GC approach to construction.

## **PROJECT STATUS**

The Port has completed the design of the MBFL Project, and the permits are expected to be issued in October 2019. Project staff is preparing bid construction documents for solicitation. Port staff will present future information and proposed action items to the Port Commission related to operation and management of the waterside assets of the Project, and associated funding.

Agua Vista Park is just to the south of the Project. The Port is improving the Park with 2012 Clean and Safe Neighborhood Parks Bond proceeds and ensuring the design integrates into the flow of the adjacent ferry plaza. The San Francisco Public Works department is completing the design of the park improvements which is scheduled for completion in the fall of 2019. Port staff is recommending bidding the Park construction scope with the MBFL.

## **PERMITS**

The City of San Francisco Planning Department issued a Preliminary Mitigated Negative Declaration (MND) for the Project on May 2, 2018. The Planning Department posted the Preliminary MND for public review and provided notice of the intent to adopt the MND as required by CEQA and Chapter 31 of the San Francisco Administrative Code. The MND was not appealed to the Planning Commission, and the Final MND was signed on June 18, 2018, with the issuance of an encroachment permit on July 6, 2018. A Notice of Determination was signed and filed with the San Francisco County Clerk and the California Office of Planning and Research on September 13, 2018. (2017-008824ENV).

Port staff has actively engaged and worked with the regulatory permitting and resource agencies to review the proposed project design and specifications. Port staff has provided agency briefings to review both landside and waterside project elements and develop avoidance, minimization, and monitoring plans to be implemented during in-water construction activities (demolition, pile driving, dredging and post dredge sediment capping) in compliance with environmental regulations.

We anticipate completion of all environmental project permits in October 2019 including National Marine Fisheries Service Endangered Species Act Section 7 and Essential Fish Habitat consultation, San Francisco Regional Water Quality Control Board (RWQCB) - Clean Water Act Section 401 Water Quality Certification, San Francisco Bay Conservation and Development Commission (BCDC) Major Permit and Federal Consistency Certification, and U.S. Army Corps of Engineers (USACE) Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Individual Permit.

### **COMMUNITY OUTREACH**

The Port has conducted extensive community outreach on the MBFL Project. Port outreach included presentations to Central Waterfront Advisory Group, Southern Waterfront Advisory Group, Mission Bay Citizens Advisory Committee, Bay Area Council, Dogpatch Neighborhood Association, SF Bicycle Coalition, South Beach Harbor Neighborhood Association, Golden Gate Audubon Society, as well as response to individual queries from citizens referred by the Port website and other meetings.

### **FUNDING AND BUDGET**

Refer to Table 1 for a summary of the funds, construction costs and funding sources.

The Port and City committed approximately \$7 million for the design and entitlement of the Project. \$750,000 of the secured funding has not yet been allocated and available for pre-construction services to be provided through the proposed CM/GC contract.

The Port has also secured approximately 27% of the estimated construction phase funding and anticipates securing the remaining funding and returning to the Port Commission to seek funding approval by fall 2019. Therefore, in order to meet a June 2020 construction start, Port staff is recommending initiating the CM/GC bid process while the remaining funds are being secured.

Working with WETA, the Port intends to secure \$25 million from the recent voter-approved bridge toll increase, Regional Measure 3 (RM3). While RM3 funding has been delayed by litigation, the Metropolitan Transportation Commission is now optimistic that all lawsuits will be resolved in time to meet our current schedule for awarding the Project construction contract, no later than early April 2020. The Port is working with WETA to advance the Port's RM3 funding request to the Metropolitan Transportation Commission (MTC) for their approval and will return to the Port Commission and Board of Supervisors for authority to enter an MOU with WETA to accept and expend the funds. If the litigation challenging RM3 is not resolved by fall 2019, the Port staff will propose to seek a reimbursement resolution from the MTC and Port Commission and identify alternative sources to backfill the \$25 million to ensure project completion.

The Port received \$8.4 million in Project funding from the Office of Community Investment and Infrastructure (OCII) and \$1.2 million from the General Fund in the Fiscal Year 2018-19 budget. The Port must spend the OCII funding by August 2020 or it will be forfeited which would then require the Port to identify a new funding source for this gap.

Also, if the Project pile installation and dredging cannot be completed by Nov 30, 2020 (when the in-water work must stop), then the project may be exposed to another year of cost escalation estimated to be ~\$1.2-1.9M.

TABLE 1: SUMMARY OF USE OF FUNDS AND FUNDING SOURCES Total (\$M)

<b>Uses of Funds</b>	
Construction*	\$37.4
<i>Fixed Pier, Float, and Gangway</i>	\$21.5
<i>Dredging and Cap</i>	\$12.0
<i>Shoreside Construction</i>	\$2.5
<i>Agua Vista Park</i>	\$1.4
Construction Management, Inspection, Monitoring, and other costs	\$2.7
Design/Entitlements/Project Management	\$7.0
<b>Total Estimated Uses (and Costs)</b>	<b>\$47.1</b>
<b>Funding Sources</b>	
Secured – Planning Phase Budget	\$7.0
<i>Port capital</i>	\$3.5
<i>General Fund support</i>	\$3.5
Secured – Construction Phase Budget	\$11.0
<i>General Fund support (bridge loan repaid by development impact fees)</i>	\$1.2
<i>Office of Community Investment &amp; Infrastructure (OCII)</i>	\$8.4
<i>2012 General Obligation (GO) Bond fund for Agua Vista Park</i>	\$1.4
Unsecured – Construction Phase Budget	\$29.0
<i>Private contributions</i>	\$4.0
<i>Regional Measure 3</i>	\$25.0
<b>Total Planned Sources</b>	<b>\$47.1</b>

\* Pending final permit conditions, includes 10% construction contingency, escalation through 2021, and does not include the construction of the water taxi landing.

### **SCHEDULE AND RISK**

In light of schedule and funding constraints, staff is targeting a June 1, 2020 construction start date. Below is a summary of the construction milestones (Funding Milestones will be covered in future staff reports):

- 100% Design Completed March 2019
- Port Commission considers Authorize to Advertise CM/GC Contract July 2019
- Port Commission considers Authorize to Award CM/GC Contract October 2019
- Receive All Environmental Permits Oct 2019

- Port Commission considers Authorize to Award Construction Contract      March 2020
- Notice to Proceed      May 2020
- Construction/Fabrication Start      June 2020
- Construction Complete      End of 2021

The major schedule constraint is the regulatory restriction on in-water work for pile driving and dredging, which is limited to between June 1 through November in any given year. Because of this limitation, a delay in the start of construction beyond June 1 could jeopardize completing the in-water work during the available time and delay completion out by a year.

As a future action, Port staff will also approach the Port Commission in early fall 2019 for authorization to advertise for a construction management (CM) contract, including environmental monitoring services, for 3<sup>rd</sup> party oversight during construction. (For clarity, construction management should not be confused with the Construction Manager/General Contractor, which is the primary subject of this memorandum). The estimated value of this separate contract is \$1.35M and anticipated to be awarded in April 2020.

**PROJECT DELIVERY METHOD**

Port staff recommends utilizing the CM/GC (Construction Manager/General Contractor) contract delivery process. This method is recommended for projects of this complexity of schedule and anticipated budget. This delivery method is authorized by San Francisco Administrative Code Section 6.68 and has been used by agencies such as WETA, San Francisco International Airport, and the Port for the Pier 27 James R. Herman Cruise Ship Terminal.

Furthermore, Port staff recommends using a Best Value Procurement (BVP) method by issuing a combined Request for Proposals (RFP)/Requests for Qualifications (RFQ) in one bid solicitation as authorized in San Francisco Administrative Code Section 6.68(b)(2).

The San Francisco Administrative Code also allows the CM/GC to negotiate subcontracts for trade work as appropriate for the Project up to an amount not exceeding 7.5% of the total estimated construction costs. The Port would have control over how the negotiation is directed during the pre-construction services.

As proposed, Port staff intends to recommend to the Port Commission an award the CM/GC pre-construction services contract in October 2019. Staff estimates that the pre-construction services would cost up to \$750,000. This would be paid from the existing funds in the engineering and entitlement funds.

Thereafter, Port staff would recommend to the Port Commission the award of the subsequent CM/GC construction contract in March 2020 if the GMP amount is reasonable and acceptable.

## **San Francisco Local Hiring Ordinance**

The Project contracting requirements will comply with the City's Local Hiring Ordinance which went into effect on March 25, 2011. The ordinance specifies for this Project a 30% mandatory participation level of all project hours within each trade performed by local residents, with no less than 15% of all project work hours within each trade performed by disadvantaged workers.

## **Advertisement**

Under the proposed CM/GC bid solicitation, qualified bidders must possess a Class A Contractor's License with at least five (5) years of experience working over water installing piles, piers, and overwater structures as well as performing dredging and landside work such as parks. Bids will be advertised to reach contractors through the following methods:

- Port Internet
- Direct targeted emails based on location and trade
- Chambers of Commerce and Merchant Associations – Postings and alerts within the traditional and ethnic Chambers
  - Hispanic Chamber of Commerce
  - San Francisco African Chamber of Commerce
  - Chinese Chamber of Commerce
  - LGBT Chamber of Commerce
- Minority/Women Business Enterprise Agencies
- Direct phone calls to targeted individuals and businesses to promote joint ventures
- Contract Monitoring Division list of contractors
- Office of Contract Administration Internet Site
- SFPUC Contractor Assistance Center
- San Francisco Public Library
- Plan Rooms (Builders Exchange, Contractors Information Network, etc.) 18 total
- San Francisco Chronicle (or Examiner)
- Community Newspapers:
  - Bay Area Reporter
  - Central City Extra
  - El Mensajero
  - EL Reportero
  - Marina Times/Northside Publications
  - Potrero View
  - San Francisco Bayview
  - Sing Tao Daily
  - Small Business Exchange
  - The Western Edition
  - World Journal
  - Sun Reporter

## **LBE OPPORTUNITIES**

The current COWI professional engineering contract, with authorized funding of \$4,766,535, is exceeding the applicable 20% Local Business Enterprise (LBE) Goal, with LBE subcontractor participation of 28% (43% if including the Joint Venture LBE Partner).

CMD, in consultation with the Port, has determined the city-wide 20% LBE participation requirement cannot be met on this Project because of several factors for construction. The Project is primarily dredging and overwater construction and there are a limited number of experienced LBE subcontractors available to perform this work. Furthermore, CMD acknowledges that there are no LBE fabricators for critical pieces of equipment (i.e., floats, gangways and the specialized roofing systems).

Based on its initial review, CMD set the LBE subcontracting goal for the Pre-Construction Services at 12% and Construction at 6%. After reviewing the contract documentation again with Port staff in preparation for this item, CMD elected to combine the Pre-Construction and Construction Services into one contract with an aggregate LBE subcontracting goal of 8%. This LBE sub-participation requirement is based upon availability of LBE firms that can perform the various services included in the proposed scope of work.

State funds allocated to the Port under bond measure RM3 might impose procurement restrictions that would require the Port to implement the state Disadvantaged Business Entity (DBE) contracting program instead of the City's LBE contracting ordinance. Port staff are aware of this possibility and researching the implications.

## **Recommendation**

Port staff requests the Port Commission's authorization to advertise a combined Request for Proposals/Request for Qualifications (RFP/RFQ) incorporating the Best Value Procurement method for Contract No. 2819 for Construction Manager/General Contractor (CM/GC) services for the pre-construction services for the MBFL as detailed in this report.

Prepared by: Jonathan Roman  
Project Manager

For: Rod Iwashita  
Chief Harbor Engineer

## **Exhibits:**

Exhibit 1- Project Site Location (Map)

Exhibit 2- Site View (Map)

Exhibit 3- General Site Plan/Landside Limits of Work (Map)



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO  
RESOLUTION NO. 19-27**

- WHEREAS, Port staff seeks authorization to solicit competitive bids for a combined Request for Proposals/Request for Qualifications (RFP/RFQ) for a Construction Manager/General Contractor (CM/GC) pursuant to San Francisco Administrative Code Section 6.68 to perform the pre-construction services of the Project for Construction Contract No. 2819, Mission Bay Ferry Landing (the "Project"); and
- WHEREAS, Port staff recommends that the combined RFP/RFQ for CM/GC services incorporate a Best Value Procurement (BVP) method in the contract solicitation; and
- WHEREAS, the Project pre-construction services base bid scope of work includes the CM/GC's procurement and construction for a float, fixed pier, gangway, roofing, performing dredging, installation of all utilities, and shoreside amenities to berth two ferry boats at Terry Francois Boulevard at 16<sup>th</sup> Street as well as improvements to Agua Vista Park; and
- WHEREAS, Based upon the current Project scope and design, the CM/GC pre-construction services are estimated to cost \$750,000; and
- WHEREAS, A Mitigated Negative Declaration was issued under the California Environmental Quality Act (CEQA) on July 6, 2018, and Port staff expects that all other environmental permits will be secured by October 2019; and
- WHEREAS, the CM/GC RFP/RFQ submittal requirements will require the proposers to commit to meeting both the overall Local Business Enterprises (LBEs) sub-participation requirement of 8% as set by the City's Contract Monitoring Division (CMD) and requirements of the San Francisco Local Hiring Ordinance including the 30% mandatory participation level for each qualifying trade; now, therefore be it
- RESOLVED, that the San Francisco Port Commission hereby authorizes Port staff to advertise a combined Request for Proposals/Request for Qualifications, incorporating the Best Value Procurement method, for Construction Manager/General Contractor (CM/GC) services for the pre-construction for Contract No. 2819, Mission Bay Ferry Landing) (the "Project") as described in the staff memorandum accompanying this Resolution.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 2019.***

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Secretary