

GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT

RESOLUTION NO. 2013-059

**APPROVE THE REJECTION OF ALL BIDS RECEIVED FOR
CONTRACT NO. 2013-BT-8,
SAN RAFAEL BUS FACILITY LIGHTING IMPROVEMENTS**

June 28, 2013

WHEREAS, the Board of Directors (Board) of the Golden Gate Bridge, Highway and Transportation District (District) operates Golden Gate Transit bus service; and,

WHEREAS, the San Rafael Bus Facility (SRBF) is the District's central facility for its Bus Transit Division's administration, operations and maintenance functions, and many of the SRBF buildings are over 40 years old and require renovations, with the majority of the light fixtures at the Bus Administration Building, the Bus Maintenance Shop and the Fuel Island buildings (Buildings) are at the end of their useful life and in need of replacement; and,

WHEREAS, the Engineering Department prepared construction bid documents for the retrofit and replacement of the lights inside and around the Buildings, and staff wishes to award a construction contract that will retrofit and replace the existing light fixtures with new energy-efficient lighting at the Buildings; and,

WHEREAS, the work includes: (1) removal and disposal of 209 existing light fixtures, and their replacement with 209 new light fixtures; (2) retrofit of 542 existing light fixtures, including removal and disposal of existing ballasts and lamps; (3) installation of 159 additional new light fixtures; (4) replacement of 25 lamps in previously installed energy-efficient light fixtures; (5) installation of bracing of the new and retrofitted light fixtures; (6) installation of electrical wiring and switches compatible with the energy-efficient light fixtures; and, (7) all other associated work, with the majority of the work specified to be performed at night during non-peak hours to minimize disruptions to Bus Transit Division operations; and,

WHEREAS, on April 9, 2013, staff advertised for bids for Contract No. 2013-BT-8, *San Rafael Bus Facility Lighting Improvements*; and,

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WHEREAS, on May 7, 2013, the Secretary of the District received, opened and publicly read two bids; one from CF Contracting, Inc., San Francisco, CA, in the amount of \$297,360.00, and, one from Angotti & Reilly, Inc., San Francisco, CA, in the amount of \$469,769.00; and,

WHEREAS, the project will be funded with Federal Transit Administration (FTA) grant and District funds, and the FTA contracting rules require that bidders, as part of their bid submittals, complete and sign a FTA *Buy America Certificate*, which lists two options:

1. Option 1 – *Certificate of Compliance with Buy America Requirements*: Bidder or Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661; or,
2. Option 2 – *Certificate of Non-Compliance with Buy America Requirements*: Bidder or Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7; and,

WHEREAS, in general, the Buy America requirements apply to all steel, iron and manufactured products; and,

WHEREAS, the lowest bidder, CF Contracting, Inc., declared Option Two, *Certificate of Non-Compliance with Buy America Requirements*, in its bid proposal; and,

WHEREAS, although the Buy America regulations provide for waivers for grantees whose lowest bidder declared Option Two, the FTA very narrowly construed these exceptions and advised grantees that generally, such waivers will not be approved, and when asked for clarification regarding obtaining a waiver for this construction contract, the FTA informed staff that the FTA would likely reject a request for such a waiver; and,

WHEREAS, staff examined the issue and found that the waiver process is lengthy and requires sign-off at the highest levels of the FTA, and it would not be practical for the District to go through the waiver process under these circumstances; and,

WHEREAS, because the bid solicitation did not inform potential bidders that the project is not eligible for Buy America waivers pursuant to Option Two, the low bidder cannot be declared non-responsive to the solicitation; and,

WHEREAS, on the other hand, the District cannot construct the project without the FTA's financial participation; and,

WHEREAS, as a result of these findings, staff recommends that it is in the best interest of the District to reject all bids received on May 7, 2013; and,

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WHEREAS, prior to re-advertising the project, the District will solicit information from product supply sources on the availability of the U.S.-made products required to construct the project, and when the District solicits bids for the project again, the District will clarify the Buy America requirements to explicitly state that bidders must certify that they will comply with the Buy America requirements, and, in addition, prospective bidders must verify U.S.-made product availability before bids are opened; and,

WHEREAS, District staff estimates the fiscal impact of re-advertising the project for construction bids to be around \$9,000.00, and requisite funds are available in the FY 13/14 Bus Transit Division Capital Budget to finance this cost; and,

WHEREAS, the Building and Operating Committee at its meeting of June 27, 2013, has so recommended; now, therefore, be it

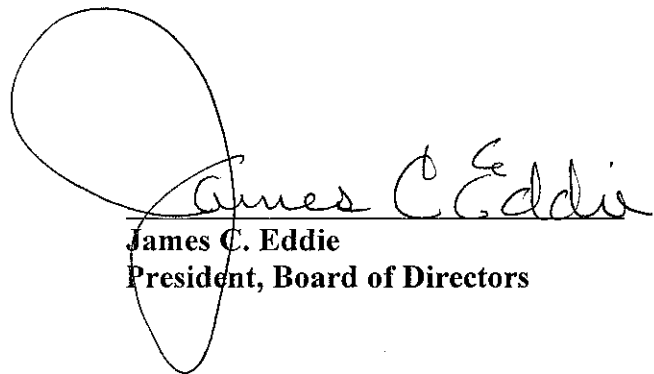
RESOLVED that the Board of Directors of the Golden Gate Bridge, Highway and Transportation District (District) hereby approves the rejection of all bids received for Contract No. 2013-BT-8, *San Rafael Bus Facility Lighting Improvements* (Contract No. 2013-BT-8), with the understanding that District staff will re-advertise Contract No. 2013-BT-8 to clarify the Federal Transit Administration's Buy America requirements.

ADOPTED this 28th day of June 2013, by the following vote of the Board of Directors:


AYES (17): Directors Arnold, Belforte, Breed, Campos, Cochran, Fredericks, Moylan, Pahre, Rabbitt, Sears, Snyder, Sobel, Theriault and Wiener; Second Vice President Stroeh; First Vice President Grosboll; President Eddie

NOES (0): None

ABSENT (2): Directors Reilly and Yee



James C. Eddie
President, Board of Directors

ATTEST: 
Janet S. Tarantino
Secretary of the District