

MOTION NO. M2018-172
Ratification of CEO's Declaration of Emergency to Contract for the Purchase and Installation of a Light Rail Vehicle Lift

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Board	12/20/2018	Final Action	Ron Lewis, Executive Director of DECM Tracy Reed, Deputy Executive Director, Project Management – New and Existing Facilities

PROPOSED ACTION

Ratifies the chief executive officer's finding of an emergency in connection with the purchase and installation of a light rail vehicle lift at the Operations and Maintenance Facility due to the fact that Macton Corporation has ceased doing business and is unable to complete its work.

KEY FEATURES SUMMARY

- In November 2017, through Motion No. M2017-131, the Board authorized a contract with Macton Corporation (Macton) to design, manufacture, and install a second lift in the Link Operations and Maintenance Facility (OMF) after preparatory work was completed by others.
- On November 28, 2018, Sound Transit project staff were informed word that due to unforeseen circumstances, Macton was unable to secure financing for its ongoing contracts and would not be able to fulfill its obligations under the contract with Sound Transit.
- In March 2019, new light rail vehicles will begin arriving which require facilities to service them, including a second light rail vehicle lift designed to support the new vehicles.
- It is critical to the continued operations at the OMF and to light rail operations that the schedule for the manufacture and installation of the lift be maintained. In addition to potentially interrupting light rail maintenance and operations, additional costs would be incurred under related contracts.
- In light of these circumstances, there is not sufficient time to re-procure the contract in time to meet the schedule. Staff has identified a qualified replacement contractor and is in the process of negotiating and executing a contract under which the work will be performed within the timeframes necessary to accommodate the arrival of the new light rail vehicles.
- Ratification of the contract ultimately executed with the replacement contractor will be sought at a Board meeting in the first quarter of 2019.

BACKGROUND

Sound Transit had previously contracted with Macton for the design, manufacture, delivery, installation, testing, and commissioning of an above ground light rail vehicle lift and turntables for the Operations and Maintenance Facility. The company suddenly and unexpectedly ceased doing business and is now unable to complete its work under this contract. If a new contract with an alternative supplier is not immediately executed, Sound Transit will incur significant additional costs in connection with the contract for preparatory work for the installation of the lift, the design review work in connection with the suppliers design of the lift, and most significantly, in connection with the new LRVs scheduled to begin arriving from Siemens Industry's manufacturing plant in March

2019. Without the new lift installed, Sound Transit will be unable to service the new and expanded light rail vehicle fleet.

Sound Transit issued a Request for Proposals on October 24, 2016, for the purchase and installation of the light rail vehicle lift. A single proposal was received. The proposer requested to withdraw its proposal on January 31, 2017, as it had difficulty subcontracting the civil site work and would be unable to obtain the required insurance. On February 8, 2017, the procurement was cancelled.

On July 13, 2017 an Invitation for Bid was issued for the design, manufacture, delivery, and installation of the lift. Two bids were received. The contract was executed on December 5, 2017, with Macton Corporation. That contract required that the lift be delivered by July 30, 2018. The delivery date was not met, but a later delivery date was subsequently negotiated.

On November 28, 2018, Sound Transit project staff were informed that Macton's president and owner had passed away and that the company was unable to secure financing for its ongoing contracts. Macton executive staff confirmed that the company could no longer conduct business and would not be able to fulfill its obligations under its contract with Sound Transit. Sound Transit project and legal staff began taking the necessary measures to terminate the contract for cause and to protect Sound Transit's rights, including asserting a claim against Macton's surety.

It is critical to the continued operations at the OMF and to light rail operations that the schedule for the design, manufacture, and installation of the lift be maintained. In addition to potentially interrupting those operations, additional costs will be incurred in connection with the related contracts with Granite Construction for preparation of the OMF for installation of the lift, with David Evans and Associates for design review, and with Siemens Industry, Inc. for purchase of the light rail vehicles. Operations would likely be impacted since the current lift cannot accommodate the new Siemens light rail vehicles.

In light of the foregoing, the CEO issued an emergency declaration on December 11, 2018.

Staff has identified a qualified replacement contractor and is in the process of negotiating and executing a contract under which the work will be performed within the timeframe necessary to accommodate the arrival of the new Siemens vehicles. Ratification of the contract ultimately executed with the replacement contractor will be sought at a Board meeting in 1st quarter 2019.

PROCUREMENT INFORMATION

Resolution 78-2, Section 7 authorizes the CEO to declare an emergency and enter into contracts. Per these provisions, the CEO must request the Board ratify the declaration of emergency at the next Board meeting. Ratification of the contract Sound Transit executed with the replacement contractor will be sought at a Board meeting in the first quarter of 2019.

FISCAL INFORMATION

The estimate of costs for the replacement contractor to complete the design, manufacture, and installation of the lift has not yet been completed. That information will be provided when ratification of the contract for this work is sought. The original contract with Macton was in the amount of \$762,993. To date, \$321,883 has been paid to Macton and \$441,170 of the committed budget remains.

Additionally, Sound Transit legal staff is engaged in recovering all applicable damages from Macton's surety.

SMALL BUSINESS/DBE PARTICIPATION

Sound Transit promotes and encourages small business participation, which also includes Disadvantaged Business Enterprises (DBEs). Small Business and DBE goals are based upon an examination of subcontracting opportunities contained in the work of this contract and the number of Small Businesses/DBEs available to perform such subcontracting work.

Sound Transit is working to determine if there are Small Business and DBE subcontracting opportunities associated with the work of this contract. Small Business/DBE goals will be established following that determination.

PUBLIC INVOLVEMENT

Not applicable to this action.

TIME CONSTRAINTS

Significant schedule and cost impacts will result if the replacement contractor is not immediately engaged.

ENVIRONMENTAL REVIEW

KH 12/17/18

LEGAL REVIEW

JEN 12/17/18

MOTION NO. M2018-172

A motion of the Board of the Central Puget Sound Regional Transit Authority ratifying the chief executive officer's finding of an emergency in connection with the purchase and installation of a light rail vehicle lift at the Operations and Maintenance Facility due to the fact that Macton Corporation has ceased doing business and is unable to complete its work.

BACKGROUND:

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accommodate the arrival of the new Siemens vehicles. Ratification of the contract ultimately executed with the replacement contractor will be sought at a Board meeting in 1st quarter 2019.

MOTION:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority to ratify the executive officer's finding of an emergency in connection with the purchase and installation of a light rail vehicle lift at the Operations and Maintenance Facility due to the fact that Macton Corporation has ceased doing business and is unable to complete its work.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on December 20, 2018.



Dave Somers
Board Chair

ATTEST:



Kathryn Flores
Board Administrator