

AGENDA ITEM
MEETING DATE October 16, 2019

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM**

TO: Members of the Governing Board

**SUBJECT: CONTRACT AWARD TO BHM CONSTRUCTION INC.,
FOR BUILDING LIBRARY/LRC PROJECT (B-100
REPLACEMENT) RESOLUTION NO. 19/20-07**

SUMMARY:

CONTINUED FROM THE PREVIOUS PAGE

This project is being partially funded by the State of California, any approval action taken by the Board of Trustees is contingent on the approval of the State of California. The State of California approval will be requested if the Board of Trustees approves this Agenda Item.

The Board is asked to approve a contract to BHM Construction Inc., in the amount of \$30,279,100.00 (State Funds/Measure Q Funds)

The contract is available online at <http://www.solano.edu/measureq/planning.php>

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**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD**

**RESOLUTION TO APPROVE CONSTRUCTION CONTRACT
TO BHM CONSTRUCTION, INC.**

RESOLUTION NO. 19/20 – 07

WHEREAS, the Solano Community College District (“District”) seeks to apply for State funding, which requires proof of award of contract;

WHEREAS, pursuant to Public Contract Code section 20651.5, the Governing Board of the Solano Community College District required prequalification to bid on the Library Learning Recourse Center project (“Project”);

WHEREAS, the Request for Prequalification of Bidders was published in the Daily Republic, Vacaville Reporter, Vallejo Times-Herald and Sacramento Bee on May 16, 2019 and May 23, 2019;

WHEREAS, after Addendum #01 to the Request for Prequalification of Bidders was issued, another advertisement was published in the Daily Republic, Vacaville Reporter, Vallejo Times-Herald and Sacramento Bee on June 19, 2019 and June 26, 2019;

WHEREAS, the District prequalified eight (8) contractors;

WHEREAS, an Invitation to Bid was issued to the prequalified contractors;

WHEREAS, the bids were publically opened and read aloud in the District’s Board Room in Building 600, on September 25, 2019 at 2:00 p.m. in accordance with the Invitation to Bid;

WHEREAS, there were four (4) bids submitted for the project:

- BHM Construction, Inc.: \$30,279,000
- Alten Construction, Inc.: \$31,311,000
- Arntz Builders, Inc.: \$32,800,000
- John F Otto, Inc. dba Otto Construction: \$35,325,000; and

WHEREAS, the Districts seeks to award the contract to BHM Construction, Inc., who is the lowest responsive, responsible bidder.

NOW, THEREFORE, the Governing Board of the Solano Community College District does hereby determine, resolve, and order as follows:

1. That the above recitals are true and correct.
2. That the contract was competitively bid.
3. That the Board has reserved the right to waive any irregularity in any bid received, if any.

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- 4. That the District Superintendent or designee is hereby authorized to take all steps and perform all actions necessary to finalize and enter into the contract with BHM Construction, Inc. for the Library Learning Recourse Center Project, and to take any actions deemed necessary to protect the best interests of the District, upon receipt of State of California funding and project approval.

- 5. That this Resolution shall take effect immediately.

PASSED AND ADOPTED by the Governing Board of the Solano Community College District, on October 16, 2019.

A. MARIE YOUNG
BOARD PRESIDENT

CELIA ESPOSITO-NOY, Ed.D.
SECRETARY

DOCUMENT 00 52 13

AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED INTO THIS 30th DAY OF OCTOBER, 2019, by and between the Solano Community College District ("District") and BHM CONSTRUCTION, INC. ("Contractor") ("Agreement").

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

- 1. The Work:** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of the following project:

Library/ Learning Resource Center Project (Building 100 Replacement)

("Project" or "Contract" or "Work")

It is understood and agreed that the Work shall be performed and completed as required in the Contract Documents including, without limitation, the Drawings and Specifications and submission of all documents required to secure funding or by the Division of the State Architect for close-out of the Project, under the direction and supervision of, and subject to the approval of, the District or its authorized representative.

- 2. The Contract Documents:** The complete Contract consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. Any and all obligations of the District and Contractor are fully set forth and described in the Contract Documents. All Contract Documents are intended to cooperate so that any Work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all Contract Documents.
- 3. Interpretation of Contract Documents:** Should any question arise concerning the intent or meaning of Contract Documents, including the Drawings or Specifications, the question shall be submitted to the District for interpretation. If a conflict exists in the Contract Documents, valid, written modifications, beginning with the most recent, shall control over this Agreement (if any), which shall control over the Special Conditions, which shall control over any Supplemental Conditions, which shall control over the General Conditions, which shall control over the remaining Division 0 documents, which shall control over Division 1 Documents which shall control over Division 2 through Division 49 documents, which shall control over figured dimensions, which shall control over large-scale drawings, which shall control over small-scale drawings. In no case shall a document calling for lower quality and/or quantity material or workmanship control. The decision of the District in the matter shall be final.
- 4. Time for Completion:** It is hereby understood and agreed that the Work under this Contract shall be completed by December 15th, 2021, per the milestone dates specified in Specification Section 00 01 20 "List of Schedules" ("Contract Time").

5. **Completion - Extension of Time:** Should the Contractor fail to complete this Contract, and the Work provided herein, within the times fixed for completion millstones, due allowance being made for the contingencies provided for herein, the Contractor shall become liable to the District for all loss and damage that the District may suffer on account thereof. The Contractor shall coordinate its Work with the Work of all other contractors. The District shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that will allow timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the Work of other contractors.
6. **Liquidated Damages:** Time is of the essence for all work under this Agreement. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that the District will sustain in the event of and by reason of Contractor's delay; therefore, Contractor agrees that it shall pay to the District the sum of Five Thousand Dollars (\$5,000.00) per day of delay in achieving Substantial Completion and a total of Three Thousand Dollars (\$3,000.00) per day of delay in achieving Final Completion for the project, by the dates indicated in the Milestone Schedule shown in Specification Section 00 01 20 "List of Schedules" and 01 32 13 "Scheduling of Work".

It is hereby understood and agreed that this amount is not a penalty.

In the event that any portion of the liquidated damages is not paid to the District, the District may deduct that amount from any money due or that may become due the Contractor under this Agreement, and such deduction does not constitute a withholding or penalty. The District's right to assess liquidated damages is as indicated herein and in the General Conditions.

The time during which the Contract is delayed for cause, as hereinafter specified, may extend the time of completion for a reasonable time as the District may grant, provided that Contractor has complied with the claims procedure of the Contract Documents. This provision does not exclude the recovery of damages by either party under other provisions in the Contract Documents.

7. **Loss Or Damage:** The District and its agents and authorized representatives shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to the Work, or any part thereof, or in or about the same during its construction and before acceptance, and the Contractor shall assume all liabilities of every kind or nature arising from the Work, either by accident, negligence, theft, vandalism, or any cause whatsoever; and shall hold the District and its agents and authorized representatives harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatsoever.
8. **Insurance and Bonds:** Prior to issuance of the Notice to Proceed by the District, Contractor shall provide all required certificates of insurance, insurance endorsements, and payment and performance bonds as evidence thereof.
9. **Prosecution of Work:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, the District, may, pursuant to the General Conditions and without prejudice to any other remedy it may have,

make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.

- 10. Authority of Architect, Project Inspector, and DSA:** Contractor hereby acknowledges that the Architect(s), the Project Inspector(s), and the Division of the State Architect ("DSA") have authority to approve and/or suspend Work if the Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws and regulations. The Contractor shall be liable for any delay caused by its non-compliant Work.
- 11. Assignment of Contract:** Neither the Contract, nor any part thereof, nor any moneys due or to become due thereunder, may be assigned by the Contractor without the prior written approval of the District, nor without the written consent of the Surety on the Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.
- 12. Classification of Contractor's License:** Contractor hereby acknowledges that it currently holds valid Type B-General Building Contractor's license(s) issued by the State of California, Contractors' State License Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.
- 13. Registration as Public Works Contractor:** The Contractor and all Subcontractors currently are registered as public works contractors with the Department of Industrial Relations, State of California, in accordance with Labor Code section 1771.1.
- 14. Payment of Prevailing Wages:** The Contractor and all Subcontractors shall pay all workers on all Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the District, pursuant to sections 1770 et seq. of the California Labor Code.
- 15.** This Project is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations pursuant to Labor Code section 1771.4 and Title 8 of the California Code of Regulations. Contractor specifically acknowledges and understands that it shall perform the Work of this Agreement while complying with all the applicable provisions of Division 2, Part 7, Chapter 1, of the Labor Code, including, without limitation, the requirement that the Contractor and all of its Subcontractors shall timely submit complete and accurate electronic certified payroll records as required by the Contract Documents, or the District may not issue payment.
- 16. Contract Price:** In consideration of the foregoing covenants, promises, and agreements on the part of the Contractor, and the strict and literal fulfillment of each and every covenant, promise, and agreement, and as compensation agreed upon for the Work and construction, erection, and completion as aforesaid, the District covenants, promises, and agrees that it will well and truly pay and cause to be paid to the Contractor in full, and as the full Contract Price and compensation for

construction, erection, and completion of the Work hereinabove agreed to be performed by the Contractor, the following price:

Thirty Million, Two Hundred Seventy-Nine Thousand, and One Hundred Dollars (\$30,279,100),

in lawful money of the United States, which sum is to be paid according to the schedule provided by the Contractor and accepted by the District and subject to additions and deductions as provided in the Contract. This amount supersedes any previously stated and/or agreed to amount(s).

- 17. No Representations:** No representations have been made other than as set forth in writing in the Contract Documents, including this Agreement. Each of the Parties to this Agreement warrants that it has carefully read and understood the terms and conditions of this Agreement and all Contract Documents, and that it has not relied upon the representations or advice of any other Party or any attorney not its own.
- 18. Entire Agreement:** The Contract Documents, including this Agreement, set forth the entire agreement between the parties hereto and fully supersede any and all prior agreements, understandings, written or oral, between the parties hereto pertaining to the subject matter thereof.
- 19. Severability:** If any term, covenant, condition, or provision in any of the Contract Documents is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

IN WITNESS WHEREOF, accepted and agreed on the date indicated above:

CONTRACTOR

**SOLANO COMMUNITY COLLEGE
DISTRICT**

By: _____

By: Lucky Lofton

Title: _____

Title: Executive Bonds Manager

NOTE: If the party executing this Contract is a corporation, a certified copy of the by-laws, or of the resolution of the Board of Directors, authorizing the officers of said corporation to execute the Contract and the bonds required thereby must be attached hereto.

END OF DOCUMENT