



Midpeninsula Regional  
Open Space District

January 20, 2021  
Board Meeting 21-02

## **SPECIAL MEETING**

### **BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

**Wednesday, January 20, 2021**

*The Board of Directors conducted this meeting in accordance with California Governor Newsom's Executive Order N-29-20. All Board members and staff participated via teleconference.*

### **APPROVED MINUTES\***

#### **SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

President Riffle called the special meeting of the Midpeninsula Regional Open Space District to order at 5:00 p.m.

#### **ROLL CALL**

Members Present: Jed Cyr, Larry Hassett, Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Curt Riffle, and Pete Siemens

Members Absent: None

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, Assistant General Manager Susanna Chan, District Clerk/Assistant to the General Manager Jennifer Woodworth, Engineering & Construction Manager Jay Lin, Senior Capital Project Manager Tanisha Werner

President Riffle announced this meeting is being held in accordance with Governor Newsom's Executive Order allowing Board members to participate remotely. The District has done its best to conduct a meeting where everyone has an opportunity to listen to the meeting and to provide comment. The public has the opportunity to comment on the agenda, and the opportunity to listen to this meeting through the internet or via telephone. This information can be found on the meeting agenda, which was physically posted at the District's Administrative Office, and on the District website. President Riffle described the process and protocols for the meeting.

#### **ORAL COMMUNICATIONS**

District Clerk Jennifer Woodworth read the submitted comments into the record.

Shane Bracken stated e-bikes allow more visitors to enjoy the outdoors and do not provide additional speed that could endanger others. Mr. Bracken urged the Board to allow e-bikes

**ADOPTION OF AGENDA**

**Motion:** Director Cyr moved, and Director Siemens seconded the motion to adopt the agenda.

**ROLL CALL VOTE: 7-0-0**

**BOARD BUSINESS**

**1. Award of Contract to BHM Construction, Inc., for the Administrative Office Project located at 5050 El Camino Real, Los Altos, CA (R-21-09)**

General Manager Ana Ruiz offered opening comments describing the history and purpose of the project, including a large public space for public meetings, central location for the public to learn about open space, and upgrades required to meet accessibility and code requirements.

Senior Capital Project Manager Tanisha Werner provided the staff presentation summarizing the project schedule and presented updated renderings of the 5050 El Camino Real building. Ms. Werner described the contract procurement process, including prequalification process for contractors, previous rejection of all bids by the Board, and the subsequent bidding process beginning December 17, 2020.

Director Cyr requested clarification regarding the immaterial irregularities in the low bid submitted by BHM Construction, Inc.

General Counsel Hilary Stevenson explained the immaterial irregularities and provided additional information regarding the bid packet, which makes the irregularities immaterial.

Director Holman requested additional information regarding the amount of the contract contingency.

Ms. Werner explained this is due unknown factors related to renovating an existing older building.

Director Kishimoto requested clarification regarding the costs associated with the LEED Gold certification.

Ms. Werner reported the costs included in the bid are for preparation of the required documents for LEED Gold certification but does not include funds for submitting the application for certification, which the Board may decide to pursue later.

Engineering & Construction Manager Jay Lin stated the costs for LEED Gold certification was estimated at approximately \$100,000-\$200,000 by the architects, and the building would be LEED Gold equivalent.

Director Siemens opposed preparation of the LEED Gold documentation if the District is not pursuing LEED Gold certification. Director Siemens spoke in favor of lowering the contract contingency amount.

Ms. Ruiz stated the 10% contingency amount is needed due to the age of the building and many unknowns related to the condition of the building and its roof. Due to the tight construction window, bringing contract amendments to the Board to address unforeseen costs could delay the project and incur additional costs associated with building lease extensions.

Public comment opened at 5:54 p.m.

District Clerk Jennifer Woodworth read the submitted comments into the record. Pat Marriott opposed the approval of the construction contract for 5050 El Camino Real.

Richard Placone opposed the approval of the construction contract for 5050 El Camino Real.

Public comment closed at 5:56 p.m.

Director Cyr stated that creating the LEED Gold documentation will help support the District's desire to have a LEED Gold equivalent building.

Director Holman suggested an ad hoc committee could be created to authorize use of contingency funds.

Ms. Stevenson stated a 10% contingency is standard for similar projects in the region and explained any changes to the contract amount, including contingency funds, would require full Board authorization and direction to the general manager to amend the contract.

Ms. Ruiz stated staff can provide regular updates to the Board on the project, including use of contingency funds.

Director Kersteen-Tucker spoke in favor of a lower contract contingency and requested staff updates on the project.

Director Kishimoto spoke of pursuing LEED Gold certification if the cost is not large.

Ms. Ruiz stated if the Board determines that it does not want to pursue LEED Gold certification, the bid alternate #2 (LEED Gold documentation) may be deducted from the contract.

Director Siemens spoke against including bid alternate #2 in the contract stating that it does not add value to the project. Additionally, Director Siemens spoke in favor of a 5% contract contingency.

President Riffle spoke in support of the General Manager's recommendations stating bid alternate #2 will allow the District to promote the sustainability of the building and have documentation to support those statements. President Riffle stated a 10% contract contingency is recommended by staff and will help the project stay on schedule.

Ms. Werner stated the proposed 10% contract contingency will also help the District address any potential delays related to COVID-19, which have occurred in other District projects.

Director Kersteen-Tucker stated a lower contract contingency amount will help keep the contractor on budget.

Director Cyr reported staff provides updates regarding contract contingency usage for District projects in the biweekly reports.

**Motion:** Director Kishimoto moved, and Director Hassett seconded the motion to waive immaterial irregularities in the low bid submitted by BHM Construction, Inc.

**ROLL CALL VOTE: 7-0-0**

**Motion:** Director Kishimoto moved, and Director Siemens seconded the motion to authorize the General Manager to enter into a contract with BHM Construction, Inc., of Napa, CA, for the base amount of \$19,984,221, which includes bid alternates #1, #3, and #4.

**ROLL CALL VOTE: 7-0-0**

**Motion:** Director Kishimoto moved, and Director Hassett seconded the motion to authorize a 10% contingency of \$1,998,422 to be reserved for unanticipated issues, bringing the total contract to a not-to-exceed amount of \$21,982,643.

Director Hassett commented he supports a 10% contract contingency due to need to adhere to the project timeline and given costs that the District would incur to rent back the 330 Distel Circle building if the project is not completed by March 2022.

**ROLL CALL VOTE: 5-2-0 (Directors Kersteen-Tucker and Siemens dissenting)**

**Motion:** Director Kishimoto moved, and Director Cyr seconded the motion to authorize the GM to include bid alternate #2 in the contract with BHM Construction, Inc. and direct the General Manager to execute a contract with the option to deduct bid alternate #2 following the discussion of the comparison of LEED Gold equivalent or LEED Gold certification by the Board of Directors.

**ROLL CALL VOTE: 6-1-0 (Director Siemens dissenting)**

**ADJOURNMENT**

President Riffle adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:41 p.m.

**SPECIAL MEETING – CLOSED SESSION**

President Riffle called the special meeting of the Midpeninsula Regional Open Space District to order at 6:41 p.m.

**ROLL CALL**

Members Present: Jed Cyr, Larry Hassett, Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Curt Riffle, and Pete Siemens

Members Absent: None

Staff Present: None

President Riffle announced this meeting is being held in accordance with Governor Newsom’s Executive Order allowing Board members to participate remotely. The District has done its best to conduct a meeting where everyone has an opportunity to listen to the meeting and to provide comment. The public has the opportunity to comment on the agenda, and the opportunity to listen to this meeting through the internet or via telephone. This information can be found on the meeting agenda, which was physically posted at the District’s Administrative Office, and on the District website. President Riffle described the process and protocols for the meeting.

**1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code Section 54957(b)(1)**

Title of Employee: Controller  
General Counsel  
General Manager

Public comment opened at 6:41 p.m.

District Clerk Jennifer Woodworth reported no public comments were submitted for this item.

Public comment closed at 6:41 p.m.

The Board convened into closed session at 6:42 p.m.

**ADJOURNMENT**

President Riffle adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 9:03 p.m.

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Jennifer Woodworth, MMC  
District Clerk