

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION REJECTING ALL BIDS FOR BID
SPECIFICATION NO. 2017-03 DEMOLITION AND
SITE IMPROVEMENTS OF TRANSIT SHED 1 AT
TENTH AVENUE MARINE TERMINAL SAN DIEGO,
CALIFORNIA**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I, (Port Act); and

WHEREAS, Section 37 of the Port Act requires that the California Public Contract Code (PCC) apply to public projects of the District; and

WHEREAS, the District adopted the Uniform Public Construction Cost Accounting Act (Construction Act) procedures of the PCC to apply to public projects of the District by Resolution 98-249; and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 incorporating the provisions of the Construction Act to govern the processing and administration of public projects; and

WHEREAS, the District's Bid Specification No. 2017-03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California is the first of three (3) contract packages that are under the overall Tenth Avenue Marine Terminal Transit Shed Demolition & Initial Rail Component - TIGER Grant Project; and

WHEREAS, the scope of the Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California consists of the demolition of an obsolete and underutilized transit shed and grading and compaction to support a finished pavement; and

WHEREAS, the bid advertisement period for this contract began on May 17, 2017, with a bidding duration of 42 calendar days; and

WHEREAS, the bid specifications require the bidders to submit a total contract bid amount including the base bid, plus two (2) additive bid alternates, each alternate consists of a different type of pavement system to be located in the current footprint of Bays 'A' and 'B'; and

WHEREAS, the low bidder is determined by adding the base bid amount plus both additive alternate amounts; and

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WHEREAS, the structure of this determination was to encourage competitive bid prices for both pavement system types; and

WHEREAS, the Engineer's estimate for this contract was \$12M; and

WHEREAS, on June 28, 2017, four (4) bids were received ranging in bid amounts from \$13,131,313 to \$15,460,260.65; and

WHEREAS, the apparent low bidder's bid included a negative number for one of the additive bid items; and

WHEREAS, two protests were submitted by bidders pointing out irregularities in the bids received; and

WHEREAS, on July 10, 2017, CJW Construction, Inc. (CJW) submitted a bid protest stating that Quest Civil Constructors Inc. (Quest) manipulated or ignored the bid instructions, using the deductive amount in Additive Alternate No. 1; and

WHEREAS, on July 13, 2017, West-Tech Contracting, Inc. (West-Tech) submitted a bid protest claiming abnormalities in the other three (3) bids claiming they are materially unbalanced bids which are front-loaded in an attempt to cause payment well over the value of the actual work performed in the early stage of the project; and

WHEREAS, on July 17, 2017, Quest submitted a response to the bid protest submitted by CJW stating that it did comply with the District's bid instructions and specifications; and

WHEREAS, on July 21, 2017, West-Tech submitted a response which addresses the responses from Quest and CJW stating that CJW's response contradicts CJW's own protest of Quest's bid, and that the bid documents should be clarified in order to avoid inaccuracies in bids; and

WHEREAS, PCC Section 22038 provides that in its discretion a public agency may reject any bids presented, if written notice is provided to the bidders of the agency's intention to reject all bids; and

WHEREAS, the District's Bid Specification Section 4.0 – Instructions to Bidder; Article 4.2.2 AWARD OR REJECTION OF BIDS provides that the District reserves the right to reject any or all bids; and

WHEREAS, staff recommends the District reject all bids for Bid Specification No. 2017-03, pursuant to PCC Section 22038 and District Bid Specification Section 4.0, Article 4.2.2; and

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WHEREAS, written notice was provided to all bidders on July 27, 2017, of the District's intention to reject all bids.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District, as follows:

The District shall reject all bids for Bid Specification No. 2017- 03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of August 2017, by the following vote: