

APPROVED
AUG 14 2007

REPORT OF GENERAL MANAGER

NO. 07-179

DATE: August 14, 2007

**BOARD OF RECREATION
and PARK COMMISSIONERS**

C.D. 9, 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: SOUTH PARK RECREATION CENTER - UNIVERSAL ACCESS PLAYGROUND (#1210L) (W.O. #E1904601) AND STONER RECREATION CENTER - UNIVERSAL ACCESS PLAYGROUND (#1212L) (W.O.#E1904600) - REVIEW OF BIDS AND AWARD OF CONTRACT TO MALIBU PACIFIC TENNIS COURTS, INC.

R. Adams	_____	J. Kolb	_____
H. Fujita	_____	F. Mok	_____
S. Huntley	_____	K. Regan	_____
V. Israel	_____	*M. Shull	<u>one from MS.</u>

Ray Adams
General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board:

1. Find Malibu Pacific Tennis Courts, Inc. (Malibu Pacific), with a base bid of \$873,444, to be the lowest responsive and responsible bidder for the South Park Recreation Center - Universal Access Playground (#1210L) (W.O.#E1904601) and Stoner Recreation Center - Universal Access Playground (#1212L) (W.O.#E1904600) projects;
2. Award the contract including Additive Alternate No. 1, in the amount of \$19,000, resulting in the total award amount of \$892,444, to Malibu Pacific, all according to the plans and specifications;
3. Authorize the Department's Chief Accounting Employee to encumber funds in an amount not to exceed \$892,444 from the following fund and account numbers under the awarding authority of this Board Report;

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<u>FUND SOURCE</u>	<u>FUND/DEPT/ ACCOUNT</u>	<u>ENCUMBRANCE AMOUNT</u>
<u>South Park Recreation Center</u>		
Proposition 40 Specified	205/89/WU10	\$ 381,000 ⁽¹⁾
Proposition 12 RZH	46L/22/TBD	\$ 44,669 ⁽²⁾
CIEP – General Fund	100/54/Y607	<u>\$ 22,331</u>
SUBTOTAL		\$ 448,000
 <u>Stoner Recreation Center</u>		
Proposition 40 Specified	205/89/WU12	<u>\$ 444,444</u> ⁽³⁾
 TOTAL		 \$ 892,444

(1) Available cash is \$36,355; \$344,645 of the \$381,000 is contingent upon approval of funds from the cash flow loan fund by the Office of the City Administrative Officer (CAO). The cash flow loan account will be reimbursed upon receipt of Proposition 40 Specified funds from the State.

(2) \$44,669 is contingent upon approval of funds from the cash flow loan fund by the CAO. The cash flow loan account will be reimbursed upon receipt of Prop 12 RZH funds from the State.

(3) Available cash is \$46,341; \$398,103 of the \$444,444 is contingent upon approval of funds from the cash flow loan fund by the CAO. The cash flow loan account will be reimbursed upon receipt of Proposition 40 Specified funds from the State.

4. Request staff to prepare a contract, including a “funding clause” limiting the City’s liability for the contract payments to the amount of funding available by the City for this contract in the amount of \$105,027, as well as so limiting the contractor’s obligation to perform the contract, as further described in this report; and,
5. Authorize the Board President and Secretary to execute the contract, subject to approval as to form by the City Attorney.

SUMMARY:

Thirteen Universal Access Playground (UAP) projects are included in the Proposition 40 UAP Program. To date, two UAP projects have been completed, one at Lake Street Recreation Center in Council District Thirteen (CD 13) and one at Hansen Dam in Council District Seven (CD 7). The

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remaining eleven UAP projects are being packaged in five bid groups in order to attract more competitive bids and to maximize the economy of scale. The first three bid groups, consisting of seven UAP projects, are currently under construction at the following locations: Shadow Ranch Park in Council District Three (CD 3), Anthony C. Beilenson Park in Council District Six (CD 6), Lincoln Park in Council District One (CD 1), Hazard Park in Council District Fourteen (CD 14), Martin Luther King, Jr. Therapeutic Recreation Center in Council District Eight (CD 8), Benny H. Potter West Adams Avenue Memorial Park in Council District 10 (CD 10), and Ken Malloy Harbor Regional Park in Council District 15 (CD 15).

The UAP projects at South Park Recreation Center (South Park) in Council District Nine (CD 9) and Stoner Recreation Center (Stoner) in Council District Eleven (CD 11) were paired to form the fourth bid group to be awarded and constructed under one contract.

On February 21, 2007, the Board approved the final plans and call for bids for South Park UAP, located at 345 E. 51st Street, Los Angeles, CA 90018; and Stoner UAP, located at 1835 Stoner Avenue, Los Angeles, CA 90025 (Board Report No. 07-44). The plans call for the construction of new universally accessible playgrounds with benches and drinking fountains at South Park Recreation Center and Stoner Recreation Center. The Architectural Division of the Bureau of Engineering (BOE) prepared the plans and specifications. BOE estimated the Base Bid construction cost at South Park UAP at \$432,000, and Stoner UAP at \$485,000, for a total Base Bid estimate of \$917,000. Base Bid work to be completed at South Park UAP is identified as Base Bid "A"; and Base Bid work to be completed at Stoner UAP is identified as Base Bid "B."

In addition, two Additive Alternates were identified, with the work associated with each Additive Alternate described as follows:

Additive Alternate No. 1 – South Park UAP:

Substitute resilient surfacing for stabilized decomposed granite path in the Children's Sensory Garden at South Park Recreation Center UAP.

Additive Alternate No. 2 – South Park UAP:

Add "sway fun" component to the play structure at South Park Recreation Center UAP.

The bid documents provided that the determination of the lowest bidder would be based on the Base Bid amount without the consideration of any additive alternate. The bid documents also provided that the Base Bid amount would be the combined sum of the Base Bid prices of South Park UAP (Base Bid "A") and Stoner UAP (Base Bid "B").

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On May 1, 2007, the Board received a total of seven bids as follows:

Bidders	Base Bid (A)	Base Bid (B)	Sum of (A) + (B)	Add. Alt. #1	Add. Alt. #2
Malibu Pacific Tennis Courts, Inc.	\$429,000	\$444,444	\$873,444	\$19,000	\$21,000
Simgel Co., Inc.	\$422,250	\$470,000	\$892,250	\$19,000	\$28,700
C.S. Legacy Construction, Inc.	\$468,779	\$456,957	\$925,736	\$8,209	\$16,745
Tek-Up Construction, Inc.	\$578,100	\$418,200	\$996,300	\$22,000	\$22,300
C-1 Construction Corporation	\$561,523	\$468,768	\$1,030,291	\$8,497	\$6,923
Oak Tree Construction, Inc.	\$619,500	\$613,500	\$1,233,000	\$8,000	\$11,000
Ryco Construction, Inc.	\$636,321	\$600,000	\$1,236,321	\$9,000	\$16,500

Both Additive Alternates No. 1 and No. 2 are intended to be completed at South Park UAP, and were identified accordingly on the plans as well as in the previously approved call for bids Board Report (Board Report No. 07-44). However, Additive Alternate No. 2 was inadvertently indicated as work to be completed at Stoner UAP on the "Schedule of Work and Prices" of the bid document, which is inconsistent with the original intent of the call for bids. Although there are sufficient funds to award both Additive Alternates No. 1 and No. 2, due to the discrepancy in the bid document, it is recommended that the Board award the Base Bid (\$873,444) plus Additive Alternate No. 1 (\$19,000) only, for a total award amount of \$892,444. City may issue a Change Order during construction to complete the work associated with Additive Alternate No. 2 at South Park UAP.

The Proposition 12/40 cash flow account will be reimbursed upon receipt of payment from the State, as stated in Recommendation No. 3. The Department will request these funds from the State upon receipt of warrant numbers for paid invoices, since the Department receives State funds only on a reimbursement basis. Pursuant to this Board Report, when the City receives the Proposition 12/40 funds from the State, they will automatically be appropriated to the Proposition 12/40 Cash Flow Account. The contract will provide that the City's liability for contract payments under this contract will be limited to the extent of the City's current appropriation to fund the contract. Additionally, the contractor will not be required to do any work in excess of the amount of current funding, plus any additional funding appropriated by the City, for this project. When the remaining balance of funds for the project are received, the contractor will be notified and shall then be required to complete all contract work, including the Base Bid and Additive Alternate No. 1 for the contract price of \$892,444. This will occur when the CAO approves the cash flow loans as indicated in Recommendation No. 3 of the Board Report. It is anticipated that approval will be received within 90 days after the approval of this Board Report.

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Out of the total construction contract award amount of \$892,444; \$448,000 is for the South Park UAP, and \$444,444 is for the Stoner UAP. It should be noted that because each of the UAP projects has its own funding, the contractor will be required to complete each park for the bid price amount stated for each park and must submit separate billings for each of the parks.

Staff has reviewed documentation provided by Malibu Pacific regarding the outreach effort and, based on the documents submitted, has determined that a good faith effort was made by the proposed contractor. The contractor obtained a MBE/WBE/OBE (Minority, Women and Other Business Enterprise) participation of zero percent, but satisfied 100 out of the 100-point requirements outlined by the Board's outreach program which requires a score of 75 points out of 100 to achieve a good faith effort as required. The outreach Document Package is on file in the Board Office, and a synopsis of the said package is attached. The City Attorney and staff have reviewed the bids submitted by Malibu Pacific and found them to be in order. Malibu Pacific is the lowest responsive and responsible bidder.

Staff reviewed the responsiveness and work performance of Malibu Pacific on past Department projects and found them to be satisfactory. The Department of Public Works, Office of Contract Compliance (OCC) indicated that there have been no labor compliance violations and that all other legal requirements have been met by the bidder.

Pursuant to the Los Angeles Administrative Code Sec. 10.15(d), bidders will not be released from their bids for three months, which in this case would expire on July 30, 2007. However, the Department has obtained a written agreement from Malibu Pacific to extend their bids until September 14, 2007, and from the surety, SureTech Insurance Company, to extend the bid bond.

Staff has determined that the subject project will consist of the replacement of existing playgrounds with new Universal Access Playgrounds at both South Park Recreation Center and Stoner Recreation Center, and therefore, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 2 (1) of the City CEQA Guidelines.

FISCAL IMPACT STATEMENT:

There is no immediate fiscal impact to the Department's General Fund; however, future operations and maintenance costs will be assessed upon completion of the project.

This report was prepared by Paul Tseng, Project Manager, BOE Architectural Division. Reviewed by Neil Drucker, Program Manager, BOE Recreational and Cultural Facilities Program; Bradley M. Smith, BOE, Chief Deputy City Engineer; and Michael A. Shull, Superintendent, Department of Recreation and Parks, Planning and Development Division.

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: **Malibu Pacific Tennis Courts, Inc.** Bid Date: **05/01/2007**

Project: **South Park (W.O. #E1904601) & Stoner (W.O. #E1904600) Recreation Center UAP's**

Indicator	Required Documentation	Description of Submitted or Missing Documentation	Points
1	The bidder's or proposer's efforts to obtain participation by MBEs, WBEs and other business enterprises could reasonably be expected by the Board of Recreation and Park Commissioners (the "Board") to produce a level of participation by interested sub-contractors, including 15% MBE and 2% WBE.	0	0
2 Pre-Bid Meeting	a) Attend pre-bid meeting and be listed on the attendance sheet; or b) Submit a letter prior to the pre-bid meeting either by fax to (213) 847-0703, or by mail to the Bureau of Engineering, Project Award and Control Division, 1149 S. Broadway, First Floor, Los Angeles, CA 90015.	10	10
3 Work Areas	Proof of this must be demonstrated in either Indicator 4 or 5.	13	13
4 Ad	A copy of the advertisement or a proof of publication statement or other verification which confirms the date the advertisement was published. The advertisement must be specific to the project, not generic, and may not be a plan holder advertisement provided by the publication. It should include the City of Los Angeles project name, name of bidder, areas of work available for subcontracting, and a contact person's name and telephone number, information on the availability of plans and specifications and the bidder's policy concerning assistance to subcontractors in obtaining bonds, lines of credit and/or insurance. Consideration will be given to the wording of the advertisement to ensure that it did not exclude or seriously limit the number of potential respondents.	9	9
5 Letters to Potential Subs	A copy of each letter sent to available MBEs, WBEs and OBEs for each item of work to be performed. If there is only one master notification, then a copy of the letter along with a listing of all recipients will suffice. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelope or certified mail receipts. Letters must contain areas of work to be subcontracted, City of Los Angeles project name, name of the bidder, and contact person's name, address, and telephone number.	10	10
6 Follow-up to Letters	A copy of telephone logs. These logs must include the name of the company called, telephone number, contact person, who did the calling, time, date, and the result of the conversation. Bidder must follow-up with all subcontractors to whom they sent letters.	10	10
7 Plans	Include in Indicator 4 or 5, information detailing how, where and when the bidder will make the required information available to interested subcontractors.	5	5
8 Outreach Letters	A copy of each letter sent to outreach agencies requesting assistance in recruiting MBEs, WBEs and OBEs. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain areas of work to be subcontracted, City of Los Angeles project name, name of the bidder, and contact person's name, address, and telephone number.	10	10
9 Negotiate in Good Faith	a) Copies of all MBE/WBE/OBE bids or quotes received; and b) Summary sheet organized by work area, listing bids received and the subcontractor selected for that work area. If the bidder elects to perform a listed work area with its own forces, they must include a bid that shows their own costs for the work.	26	26
10 Bonds	Include in Indicator 4 or 5, information about the bidder's efforts to assist with bonds, lines of credit and insurance.	7	7
TOTAL POINTS ACHIEVED			100
MBE/WBE % ACHIEVED			0%