

APPROVED

REPORT OF GENERAL MANAGER

NO. 07-57

DATE March 7, 2007

BOARD OF RECREATION
and PARK COMMISSIONERS

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: FIELD OF DREAMS - FIELD HOUSE (ALSO KNOWN AS GAFFEY STREET - FIELD OF DREAMS) (#1717D) (W.O. #E170961F) - REVIEW OF BIDS, ALLOCATION OF SUBDIVISION/QUIMBY FEES AND AWARD OF CONTRACT

R. Adams	_____	J. Kolb	_____
J. Combs	_____	F. Mok	_____
H. Fujita	_____	K. Regan	_____
S. Huntley	_____	M. Shull	<u>MS</u>

*As amended
see attached*

R. Adams Jr
General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

That the Board:

1. Find Tek-Up Construction, Inc., to be non-responsive;
2. Find that Tobo Construction, Inc., with a base bid of \$748,000, to be the lowest responsive and responsible bidder for the Field of Dreams - Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F) project;
3. Authorize the Chief Accounting Employee to establish a new Subdivision/Quimby Account 460K - GY for the Field of Dreams - Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F) project;
4. Authorize the Chief Accounting Employee to transfer \$219,000 in Subdivision/Quimby Fees, which were collected in 2005-2006 Fiscal Year, from the Subdivision/Quimby Fees Account 460K - 00 to Field of Dreams - Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F) Account 460K - GY;

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5. Approve the allocation of \$219,000 in Subdivision/Quimby Fees from the Field of Dreams (also known as Gaffey Street - Field of Dreams) (#1717D) (WO #E170961F); Account 460K - GY for the Field House project;
6. Award the contract in the amount of \$748,000 to Tobo Construction, Inc., all according to the plans and specifications;
7. Authorize the Chief Accounting Employee to encumber funds in the amount of \$748,000 from the following fund and account numbers under the awarding authority of this Board Report;

<u>FUND SOURCE</u>	<u>FUND/DEPT/ ACCOUNT</u>	<u>ENCUMBRANCE AMOUNT</u>	<u>AVAILABLE ENCUMBRANCE AMOUNT</u>
Proposition 12 2/3 Per Capita*	45W/22/T402	\$648,886*	\$ 33,746
Quimby	302/89/460K	\$ 15,864	\$ 15,864
Sites and Facilities	209/88/A214	<u>\$ 83,250</u>	<u>\$ 83,250</u>
Total		\$748,000	\$132,860

* Availability and encumbrance of the Proposition 12 2/3 Per Capita funds is contingent upon receipt of funds from the State.

8. Request staff to prepare a contract, including a funding clause limiting the City's liability for contract payments to the amount of funding appropriated by the City for this contract, which is \$132,860, as well as so limiting the contractor's obligation to perform the contract, as further described in this report; and
9. Authorize the Board President and Secretary to execute the contract, subject to approval as to form by the City Attorney.

SUMMARY:

On October 4, 2006 (Board Report No. 06-286), the Board of Recreation and Park Commissioners approved final plans and call for bids for the Field of Dreams – Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F) project located at 501 Westmont Drive, Los Angeles, CA 90731. The estimate for the base bid construction cost of this project is \$500,000. Plans for this project were prepared by the Bureau of Engineering, Architectural Division. The plans provide for the construction of a new restroom facility. The proposed structure is a one-story 1,200 square foot field house restroom facility that consists of eight unisex and two handicap toilet stalls

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with four lavatories. The installation of a walkway, several American Disabilities Act parking spaces, minor irrigation and landscaping are also parts of the project. The facility will be used by the park patrons, as well as for sports activities and other community gatherings. The site is a Department of Public Works, Bureau of Sanitation former landfill, which will be transferred to Recreation and Parks (RAP) when the landfill closure construction is complete. Currently, the property is being utilized by the Department for parks and recreation usage under a Memorandum of Understanding (MOU) with the Department of Public Works, Bureau of Sanitation, executed on May 23, 2001, for a term of 50 years.

On December 19, 2006, four bids were received for this project, with the lowest responsive and responsible bidder being Tobo Construction, Inc. Their base bid amount is \$748,000, which is \$248,000 above the City's base bid estimate. The bid documents state that the lowest bid shall be determined based upon the base bid amount, regardless of the amount of any additive or deductive alternate. Two deductive alternates were also included in the bid package. The description and bid amounts received are as follows:

<u>Bidders</u>	<u>Base Bid</u>	<u>Deductive Alternates No. 1</u>	<u>Deductive Alternates No. 2</u>
Tek-Up Construction, Inc.	\$ 698,526	\$ 48,112	\$ 4,500
Tobo Construction, Inc.	\$ 748,000	\$ 12,000	\$ 7,000
Advance Construction Development, Inc.	\$ 787,700	\$ 300	\$ 4,500
General Consolidated Constructors, Inc.	\$1,079,550	\$ 22,950	\$12,270

Upon approval of this report, Subdivision/Quimby fees in the amount of \$219,000, collected during Fiscal Year 2005-2006, can be transferred from the Subdivision/Quimby Fees Account 460K - 00 to the new Field of Dreams - Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F) Account 460K - GY, and can be allocated to this project. These Subdivision/Quimby Fees were collected within two miles of Field of Dreams - Field House (also known as Gaffey Street - Field of Dreams) (#1717D) (W.O. #E170961F), which is the standard distance for the allocation of Subdivision/Quimby Fees for community parks.

Upon approval of this Board Report, there will be sufficient funds to provide for the entire cost of the base bid amount, and it is recommended that the project be awarded without exercising any of the deductive alternates. However, the availability of the Proposition 12 Per Capita funds required to fully fund the projects is contingent upon receipt of these funds from the State. These funds can be requested from the State by the Department after the Issuance of the Notice-to-Proceed and would be received by the Department approximately 90 days after the request is processed. The contract will provide that the City's liability for contract payments under this contract shall be limited to the extent of the City's appropriation, subject to the terms and conditions of the contract and, for purposes of the contract, the amount funded from Proposition 12 will only be deemed appropriated upon receipt from the State. The contractor will not be required to do any work in excess of the amount of current

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funding plus any additional funding appropriated by the City for this project. When the Proposition 12 funds are received from the State, the contractor will be notified, and the contractor shall then be required to complete the remainder of all contract work.

On January 25, 2007, the L.A. for Kids Steering Committee recommended awarding the Base Bid in the amount of \$748,000.

The bid documents for this project required that the bidder provide information substantiating that at least 50 percent of the work would be self-performed by the prime contractor. The project is also subject to the City's Minority Business Enterprise, Women Business Enterprise, and Other Business Enterprise (MBE/WBE/OBE) Subcontractor Outreach Program. In order to comply with the Good Faith Outreach (GFE) requirements of the Subcontractor Outreach Program, bidders must submit GFE documentation in a timely manner sufficient to demonstrate that they achieved a minimum of 75 out of 100 GFE evaluation points as outlined in Board's Outreach Program prior to submitting their bid.

The first apparent low bidder, Tek-Up Construction, Inc., received a score of only 70 out of 100 GFE evaluation points based on the documentation they submitted; therefore, their bid is non-responsive for failing to achieve a passing GFE evaluation score of 75 points. Bids were due on December 19, 2006. Tek-Up was notified by the Bureau of Engineering's Project Award and Control Division (PAC) that they needed to submit all documentation by December 27, 2006. Tek-Up failed to receive a passing score (GFE Evaluation Results Checklist is attached) due to the following errors in submission:

1. Failed Indicator #5 - Letters to Potential Subcontractors (Received 0 out of 10 points). GFE back-up documentation was to have been submitted by December 27, 2006. On January 12, 2007, Tek-Up submitted what appears to be a log of fax numbers to which Invitations to Bid were allegedly transmitted on December 5, 2006. Such back-up documentation was submitted 16 days after the deadline, and thus was not submitted in a timely manner. Additionally, the fax log appears to have been created on January 12, 2007, which was after the December 19, 2006, deadline for submittal of bids and after the December 27, 2006, deadline for submittal of GFE back-up documentation. The log does not independently verify that the Invitations to Bid were in fact transmitted on December 5, 2006, and thus, does not verify that the outreach was conducted in a timely manner. Furthermore, if it is assumed that the Invitations to Bid were faxed on December 5, 2006, such assumption would conflict with the back-up documentation under Indicator #6 which indicates that follow-up calls to the Invitations to Bid were made on November 30, 2006, and December 1, 2006. Thus, there is no reliable evidence that outreach was made to potential subcontractors as required under Indicator #5.

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2. Failed Indicator #6 – Follow-up to Letters to Potential Subcontractors (Received 0 out of 10 points). The back-up documentation submitted for Indicator #5 alleges that initial Invitations to Bid were faxed on December 5, 2006. However, the follow-up phone log that Tek-Up submitted indicates that follow-up phone calls were made on November 30, 2006, and December 1, 2006. It is impossible that follow-up phone calls could have been made prior to sending out the initial letters to potential subcontractors. Additionally, follow-up phone calls were only made to 7 of the 29 firms to whom Invitations to Bid were allegedly faxed on December 5, 2006. Thus, there is no clear evidence that follow-up phone calls were made as required under Indicator #6.
3. Failed Indicator #8 - Letters to Outreach Agencies (Received 0 out of 10 points). Tek-Up did not submit proof that letters or faxes were sent to outreach agencies requesting assistance in recruiting MBEs, WBEs, and OBEs. The only acceptable forms of proof that agencies were contacted are either fax transmittal confirmations or copies of metered envelopes or certified mail receipts. Merely stating that Tek-Up or its agent accessed one or more websites does not prove that outreach agencies were in fact contacted to request their assistance in recruiting MBEs, WBEs, and OBEs as required under Indicator #8.

Tek-Up's bid, therefore, is deemed non-responsive for failing to achieve a passing GFE evaluation score of 75 points.

Tobo Construction, Inc., the second apparent low bidder, achieved a 57% prime contractor self-performance level. Staff has reviewed the documentation provided by Tobo Construction, Inc., regarding its outreach effort and, based on the documents submitted, has determined that Tobo Construction, Inc., met all GFE requirements. Tobo Construction, Inc., achieved 100 out of 100 GFE evaluation points. The Outreach Document Package is on file in the Board Office and a synopsis of said package is attached to this report.

The City Attorney and staff have reviewed the bid submitted by Tobo Construction, Inc., and found it to be in order; therefore, Tobo Construction, Inc., is the lowest responsive and responsible bidder. Staff recommends that the Board find Tobo Construction, Inc., to be the lowest responsive and responsible bidder and award a contract to Tobo Construction, Inc., for this project in the amount of the Base Bid, \$748,000, with the inclusion of a "funding clause" as discussed in this report.

In accordance with the requirements of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared for the recreational development of the entire site, including the proposed field house. The MND was adopted, and a Notice of Determination (NOD) filed with the offices of the Los Angeles City Clerk and Los Angeles County Clerk on July 3, 2001.

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FISCAL IMPACT STATEMENT:

There is no anticipated fiscal impact to the Department's budget, as the project's construction costs will be fully funded by Proposition 12, Sites and Facilities, and Quimby funds. The assessments of the future operations and maintenance costs have yet to be determined.

This report was prepared by Willis Yip, Project Manager. Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program, Bureau of Engineering; and Bradley M. Smith, P.E., Chief Deputy Engineer, Bureau of Engineering, and also reviewed by Michael A. Shull, Superintendent of Planning and Development, Department of Recreation and Parks.

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: Tobo Construction, Inc. Bid Date: 12/19/2006

PROJECT: FIELD OF DREAMS – FIELD HOUSE – (W.O.#E170961F)

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, 1 st 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%

MBE = 0% WBE = 0% OBE = 43.45% PRIME = 56.55%

RESPONSIVE!

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: Tek-Up Construction, Inc. Bid Date: 12/19/2006

PROJECT: FIELD OF DREAMS – FIELD HOUSE – (W.O.#E170961F)

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.	Note: Unable to locate Pan American Landscaping's WBE Certification in any database, as claimed. Otherwise, WBE = 3.74%	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, 1 st 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.	Did not include any of the fax transmittal confirmation slips on time, or copies of the metered envelopes or certified mail receipts. Date on doc is unclear.	0	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.	Did not contact all subcontractors to whom they sent letters. Conflicts w #5 above.	0	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.	Did not include any of the fax transmittal confirmation slips or copies of the metered envelopes or certified mail receipts.	0	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			70	
MBE/WBE % ACHIEVED:			0%	

MBE = 0% WBE = 0% OBE = 13.5% PRIME = 86.95%

NON-RESPONSIVE!

EXCERPT FROM THE MINUTES OF THE SPECIAL MEETING
 BOARD OF RECREATION AND PARK COMMISSIONERS
 MARCH 7, 2007

GENERAL MANAGER'S REPORT:

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FIELD OF DREAMS – FIELD HOUSE (ALSO KNOWN AS GAFFEY STREET
 FIELD OF DREAMS) (#1717D) (W.O.#E170961F) – REVIEW OF BIDS,
 ALLOCATION OF SUBDIVISION/QUIMBY FEES AND AWARD OF CONTRACT

Mr. Michael Shull, Superintendent, Planning and Development Division, amended the report as follows:

Replace Recommendation Nos. 7 and 8 to read as follows and delete Recommendation No. 9:

RECOMMENDATION:

That the Board:

7. Authorize the Chief Accounting Employee to encumber funds in the amount of \$748,000 from the following fund and account numbers under the awarding authority of this Board Report; and

<u>FUND SOURCE</u>	<u>FUND/DEPT/ ACCT</u>	<u>ENCUMBRANCE AMOUNT</u>	<u>AVAILABLE ENCUMBRANCE AMOUNT</u>
Proposition 122/3 Per Capita	45W/22/T402	\$32,204	\$32,204
<i>Proposition 12 & 40 Cash Flow*</i>	205/88/TBD	\$567,775	\$567,775
<i>MICLA Cash Flow*</i>	298/88/TBD	\$48,907	\$48,907
Quimby	302/89/460K	\$15,864	\$15,864
Sites and Facilities	209/88/A214	<u>\$83,250</u>	<u>\$83,250</u>
Total		\$748,000	\$748,000

** These funds will be reimbursed upon receipt of Proposition 12 Per Capita grant funds from the State.*

8. Authorize the Board President and Secretary to execute the contract, subject to approval as to form by the City Attorney.

Replace Paragraph No. 4 of the Board Report Summary with the following:

SUMMARY:

Upon approval of this Board Report, there will be sufficient funds to provide for the entire cost of the base bid amount, and it is recommended that the project be awarded

without exercising any of the deductive alternates. However, the availability of the Proposition 12 Per Capita funds required to fully fund the project is contingent upon receipt of these funds from the State. *The Proposition 12 and 40 Cash Flow and MICLA Cash Flow Funds will be used to cash flow \$616,682 of the Proposition 12 Per Capita funds approved for this project. Reimbursement of these funds will be requested from the State by the Department after the Issuance of the Notice-to-Proceed.*

Motion

It was moved by Vice-President Luévano, seconded by Commissioner Spelling that Report No. 07-57 be approved as amended. There being no objections, the Motion was unanimously approved.