

APPROVED

REPORT OF GENERAL MANAGER

NO. 06-352

DATE: December 13, 2006

DEC 13 2006

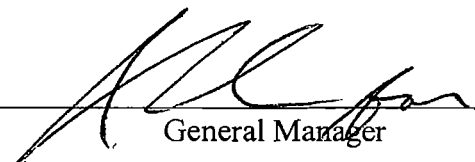
BOARD OF RECREATION  
and PARK COMMISSIONERS

C.D. 1, 8 and 14

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: LINCOLN PARK RECREATION CENTER - ADDITION TO THE EXISTING UNIVERSAL ACCESS PLAYGROUND (W.O.#E1904598); HAZARD PARK RECREATION CENTER - UNIVERSAL ACCESS PLAYGROUND (W.O.#E1904592); AND MARTIN LUTHER KING, JR. THERAPEUTIC RECREATION CENTER - UNIVERSAL ACCESS PLAYGROUND (W.O.#E1904589) - REVIEW OF BIDS AND AWARD OF CONTRACT

J. Combs	_____	J. Kolb	_____
H. Fujita	_____	F. Mok	_____
S. Huntley	_____	K. Regan	_____
B. Jensen	_____	*M. Shull	<u>ms</u>

  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board:

1. Waive, as an informality, the failure of Malibu Pacific Tennis Courts, Inc. (Malibu Pacific), to complete Schedule "B" in its bid, pursuant to Charter Section 371(c);
2. Find Malibu Pacific, with a base bid of \$1,148,600, to be the lowest responsive and responsible bidder for Lincoln Park Recreation Center - Addition to the Existing Universal Access Playground (W.O.#E1904598); Hazard Park Recreation Center - Universal Access Playground (W.O.#E1904592); and Martin Luther King, Jr. Therapeutic Recreation Center - Universal Access Playground (W.O.#E1904589) projects;
3. Award the contract including Additive Alternate No. 2, in the amount of \$26,000, resulting in the total award amount of \$1,174,600, to Malibu Pacific, all according to the plans and specifications;
4. Authorize the Department's Chief Accounting Employee to encumber funds in an amount not to exceed \$1,174,600 from the following fund and account numbers under the awarding authority of this Board Report;

REPORT OF GENERAL MANAGER

PG. 2 NO. 06-352

<u>FUND SOURCE</u>	<u>FUND/DEPT/ ACCOUNT</u>	<u>ENCUMBRANCE AMOUNT</u>
<u>Lincoln Park Recreation Center</u>		
Proposition 40 Specified	205/89/WU13	\$ 64,800
<u>Hazard Park Recreation Center</u>		
Proposition 40 Specified	205/89/WU03	\$ 482,080
CIEP – General Fund	100/54/Y607	\$ 31,920
SUBTOTAL		\$ 514,000
<u>Martin Luther King, Jr. Therapeutic Recreation Center</u>		
Proposition 40 Specified	205/89/WU04	\$ 580,800
Proposition 12 RZH	46L/22/TBD	\$ 10,000*
CIEP – General Fund	100/54/Y607	\$ 5,000
SUBTOTAL		\$ 595,800
TOTAL		\$ 1,174,600

\*Availability and encumbrance of these funds is contingent upon receipt of funds from the State.

5. 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 in the amount of \$1,164,600, as well as so limiting the contractor’s obligation to perform the contract, as further described in this report; and,
6. Authorize the Board President and Secretary to execute the contract, subject to approval as to form by the City Attorney.

SUMMARY:

Of the 13 Universal Access Playground (UAP) projects in the Proposition 40 UAP Program, 11 are being packaged in five bid groups in order to attract more competitive bids and to maximize the economy of scale. The UAP projects at:

- Lincoln Park (Lincoln) in Council District 1;
- Hazard Park Recreation Center (Hazard) in Council District 14; and,
- Martin Luther King, Jr. Therapeutic Recreation Center (MLK, Jr.) in Council District 8;

were grouped together to form the second of the five bid groups.

REPORT OF GENERAL MANAGER

PG. 3                      NO. 06-352

On August 9, 2006, the Board approved the final plans and call for bids for Lincoln UAP, located at 3501 Valley Boulevard, Los Angeles; Hazard UAP, located at 2230 Norfolk Street, Los Angeles; and MLK, Jr. UAP, located at 3916 South Western Avenue, Los Angeles (Board Report No. 06-214). The plans call for an addition of elephant water features to the existing Lincoln UAP, and the construction of new UAPs with benches and drinking fountains at Hazard Park Recreation Center and MLK, Jr. Therapeutic Recreation Center. Cornerstone Studios, Inc., a consultant to the City, prepared the plans and specifications under the supervision of the Bureau of Engineering's (BOE) Architectural Division. BOE estimated the Base Bid construction cost at Lincoln UAP at \$40,000, Hazard UAP at \$490,000, and MLK, Jr. UAP at \$500,000, for a total Base Bid estimate of \$1,030,000.

Base Bid work to be completed at Lincoln UAP is identified as Base Bid "A"; Base Bid work to be completed at Hazard UAP is identified as Base Bid "B"; and, Base Bid work to be completed at MLK, Jr. UAP is identified as Base Bid "C".

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

Additive Alternate No. 1 - Hazard UAP

Chain link fence and mow strip

Additive Alternate No. 2 - Hazard UAP

Cool Mister and water supply

Additive Alternate No. 3 - MLK, Jr. UAP

Age Group 5-12 play area metal fencing

Additive Alternate No. 4 - MLK, Jr. UAP

Sand table and water supply

Additive Alternate No. 5 - MLK, Jr. UAP

Raised planter, planting and irrigation

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 Lincoln UAP (Base Bid "A"), Hazard UAP (Base Bid "B") and MLK, Jr. UAP (Base Bid "C").

REPORT OF GENERAL MANAGER

PG. 4 NO. 06-352

On September 12, 2006, the Board received a total of six (6) bids as follows:

BIDDER

Base Bid (A)	Base Bid (B)	Base Bid (C)	Sum of (A)+(B)+(C)	Add. Alt. #1	Add. Alt. #2	Add. Alt. #3	Add. Alt. #4	Add. Alt. #5
Malibu Pacific Tennis Courts, Inc. \$64,800	\$488,000	\$595,800	\$1,148,600	\$18,000	\$26,000	\$30,000	\$15,000	\$55,000
C-1 Construction Corp. \$63,220	\$511,320	\$609,460	\$1,184,000	\$8,190	\$11,719	\$57,060	\$12,161	\$6,475
AWI Builders, Inc. \$45,634	\$575,348	\$569,929	\$1,190,911	\$8,500	\$8,000	\$35,800	\$4,100	\$8,280
YKO Construction Co., Inc. \$83,000	\$525,000	\$589,000	\$1,197,000	\$10,000	\$8,000	\$48,000	\$10,000	\$8,000
Simgel Co., Inc. \$163,000	\$570,000	\$764,000	\$1,497,400	\$22,000	\$38,000	\$69,000	\$42,800	\$68,620
Enterprise Construction, Inc. \$351,000	\$654,000	\$819,000	\$1,824,000	\$15,500	\$28,900	\$43,800	\$29,000	\$31,000

The availability of the Proposition 12 RZH funds, in the amount of \$10,000, required to fully fund the project is contingent upon receipt of such funds from the State. These funds will be requested from the State by the Department after the issuance of the Notice to Proceed. The State will provide these funds upon the Department's request. 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 appropriation to fund the contract. Pursuant to this Board Report, when the City receives the additional Proposition 12 funds from the State, they will automatically be appropriated to this project and payments shall be extended to the extent of such appropriation, subject to the terms and conditions of this contract. 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, to 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 all contract work, including the base bid and Additive Alternate No. 2 for the contract price of \$1,148,600. A cash flow source for the Proposition 12 and 40 grants funds is currently pending Council approval. The cash flow funds will be repaid upon receipt of reimbursement funds from the State.

Out of the total construction contract award amount of \$1,174,600; \$64,800 is for the Lincoln UAP; \$514,000 is for the Hazard UAP (awarding Base Bid and Additive Alternate No. 2); and \$595,800 is for the MLK, Jr. UAP (awarding Base Bid only). 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. It should be

## REPORT OF GENERAL MANAGER

PG. 5                      NO. 06-352

further noted that \$28,000 of the available \$300,000 Program Contingency will be allocated to the MLK, Jr. UAP project, in order to provide sufficient funds for construction contingency, thereby reducing the Program Contingency to \$272,000.

In the bid submitted by Malibu Pacific, the Schedule "B" - Affidavit Re: Compliance with MBE/WBE (Minority and Women Business Enterprise) and Other Business Outreach Program Requirements was not filled out correctly. This is not considered to be a basis for a finding of non-responsiveness as the bidder is required to provide the Good Faith Effort (GFE) back-up supporting documentation within five days of request by BOE's Project Award and Control Division. In this instance, as detailed below, Malibu Pacific did submit proof that it met the GFE outreach requirements. Even if the Schedule "B" were to be completely and correctly filled out, whether a bidder met GFE outreach requirements would still be dependant on adequate proof. The omission of Schedule "B" or the submission of an incomplete form does not have a material impact on the bid price, and this situation presents no competitive advantage to this bidder. Thus, it is recommended that the Board waive the failure to correctly fill out the Schedule "B" as an immaterial informality pursuant to Charter Section 371(c).

Staff has reviewed documentation provided by Malibu Pacific regarding the outreach effort made 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 participation of one percent and satisfied eighty-three 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. 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 except for the informality described in this report and recommended for waiver, found them to be in order. Malibu Pacific is the lowest responsive and responsible bidder.

Pursuant to the Los Angeles Administrative Code Sec. 10.15, bidders will not be released from their bids for three months, which in this case would expire on December 11, 2006. However, the Department has obtained a written agreement from Malibu Pacific to extend their bids until January 31, 2007, and from the surety, Travelers Casualty and Surety Company of America, to extend the bid bond until March 6, 2007.

Staff reviewed the responsiveness and work performance of Malibu Pacific Tennis Court, Inc., 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.

REPORT OF GENERAL MANAGER

PG. 6                      NO. 06-352

Staff has determined that the subject project will consist of a minor addition to the existing UAP at Lincoln Park, and the replacement of existing playgrounds with new UAPs at both Hazard Recreation Center and Martin Luther King, Jr. Therapeutic 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; however, future operations and maintenance costs will be assessed upon completion of the project.

Prepared by Paul Tseng, Project Manager, Bureau of Engineering - Architectural Division; Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program; by Bradley Smith, Chief Deputy City Engineer, Bureau of Engineering.

## GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: Malibu Pacific Tennis Courts, Inc.

Bid Date: 09/12/2006

Project: Lincoln Prk., Hazard & Mlk Jr. Rec. Ctr. – Uap's (W.O.#E1904598, E1904592 & E1904589 Consecutively)

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 <sup>st</sup> Floor, Los Angeles, Ca. 90015.	Did not attend Pre-bid conference nor sent a letter of excuse prior to Pre-bid day.	10	0
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 as 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.	Did not indicate statement re: bonds, lines of credit & insurance assistance.	7	0
<b>TOTAL POINTS ACHIEVED</b>			<b>83</b>	

**MBE/WBE % ACHIEVED:**

**1%**

**MBE= 0% WBE=1% OBE=0% PRIME=99% RESPONSIVE!**