

**APPROVED**

REPORT OF GENERAL MANAGER

NO. 06-192

**JUL 12 2006**

DATE July 12, 2006

**BOARD OF RECREATION  
and PARK COMMISSIONERS**

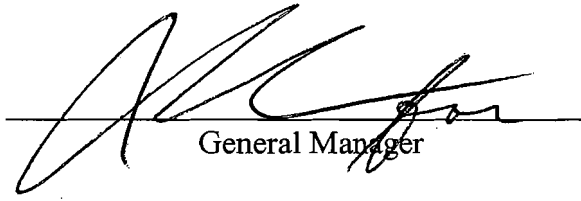
C.D. 9

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: **SOUTH BROADWAY POCKET PARK (PRJ #1109A) (W.O. #E1904755) –  
REVIEW OF BIDS AND AWARD OF CONTRACT**

J. Combs _____	J. Kolb _____
H. Fujita _____	F. Mok _____
S. Huntley _____	K. Regan _____
B. Jensen _____	*M. Shull _____

*C.M. for M.S.*



General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board:

1. Find the bid of AMCON Development, Inc., to be non-responsive for its failure to submit the required Affidavit to Accompany Proposals or Bids;
2. Find that Thomsen Landscape, with a base bid of \$396,124, is the lowest responsive and responsible bidder for the South Broadway Pocket Park (PRJ #1109A) (W.O. #E1904755) project;
3. Award the contract with Additive Alternate No. 1 in the amount of \$7,600, resulting in the total award amount of \$403,724, to Thomsen Landscape, all according to the plans and specifications;
4. Authorize the Department's Chief Accounting Employee to encumber funds in the amount of \$403,724 from the following fund and account numbers under the awarding authority of this Board Report;

<u>FUND</u>	<u>FUND/DEPT.</u>	<u>AMOUNT</u>
Anna H. Bing Living Trust Fund	205-88-YM12	\$403,724

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5. Request staff to prepare a contract, including a “funding clause” limiting the City’s liability for contract payments to the amount of funding to be received from the Anna H. Bing Living Trust, and to limit the contractor’s obligation to perform the contract, as further described in this report;
6. Direct the Board Secretary to transmit forthwith the contract to the City Attorney for review and approval as to form; and,
7. Authorize the Board President and Secretary to execute the contract subject to the City Attorney’s approval as to form.

SUMMARY:

On March 1, 2006, the Board approved final plans and called for bids for the South Broadway Pocket Park (PRJ #1109A) (W.O. #E1904755) project, located at 5207 South Broadway, Los Angeles, CA 90011 (Board Report No. 06-46). The work involves the construction of a new pocket park, approximately 6,500 square-feet in size, featuring a children’s playground, metal fencing, security lighting, drinking fountain, picnic tables and benches.

The Architectural Division of the Bureau of Engineering, in conjunction with Cornerstone Studios, Inc., the design consultant for the project, estimated the construction cost of the base bid for the project at \$400,000.

The bids received were as follows:

<u>BIDDER</u>	<u>BASE BID</u>	<u>ADD. ALT. NO. 1</u>	<u>ADD. ALT NO. 2</u>	<u>ADD. ALT. NO. 3</u>	<u>DED. ALT NO. 1</u>
AMCON Development, Inc.	\$ 319,700	\$ 9,900	\$ 37,500	\$ 7,225	\$ 26,750
Thomsen Landscape	\$ 396,124	\$ 7,600	\$ 46,400	\$ 4,300	\$ 7,300
Ryco Construction, Inc.	\$ 532,235	\$ 35,000	\$ 35,000	\$ 18,000	\$ 4,000

The bid documents defined that the determination of the lowest bidder would be based on the base bid amount, without the consideration of any additive or deductive alternate.

AMCON Development, Inc., submitted the lowest base bid as indicated above, however, the bid was deemed non-responsive for the failure to submit the required Affidavit to Accompany Proposals or Bids. Under the City’s Administrative Code Division 10, Chapter 1, Article 2, Section 10.15 (d), it states that “Every bid or proposal to perform a contract with the City, or with any board, officer or

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employee thereof, shall include in the affidavit of the bidder or proposer ..... Any bid or proposal made without such affidavit, or in violation thereof, shall not be considered.” Therefore, this makes Thomsen Landscape the apparent lowest bidder.

The City Attorney and staff have reviewed the bid submitted by Thomsen Landscape and found it to be in order. Thomsen Landscape is the lowest responsive and responsible bidder. The total of the base bid plus Additive Alternate No. 1 is \$403,724. There are sufficient funds and therefore it is recommended that the project be awarded with Additive Alternate No. 1, to construct new semi-circular seat walls and without the need to exercise the Deductive Alternate.

Currently, no funding has been appropriated for the award of the construction contract as the funds are being held in an escrow account by the Anna H. Bing Living Trust (Trust). However, the Trust has provided a letter that guarantees the availability of construction funds, and upon the execution of the construction contract and submission of evidence of such, the Trust will release the funds to the City for the appropriation of construction funds.

The City’s liability for the contract payments under this contract shall only be to the extent of the amount of funds received from the Trust and any additional funds appropriated by the City, if any, for this project to fund the contract. If the City does appropriate additional funding through other funding sources, the City’s liability for contract 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 funds released by the Trust, plus additional funding appropriated by the City, if any, for this project.

Staff has reviewed the outreach effort made by Thomsen Landscape, and based on the documents submitted, has determined that a “good faith” effort has been made. The bidder obtained a 16.87 % MBE/WBE participation and satisfied 90 out of the 100-point requirement outlined by the Board’s outreach program. The outreach Document Package is on file in the Board Office and a synopsis of the said package is attached.

Staff reviewed the responsiveness and work performance of Thomsen Landscape 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 complied with by the bidder.

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In accordance with the requirements of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration that included the development elements of the project was adopted by the City Council in August 16, 2005. A Notice of Determination was filed with the Los Angeles City and County Clerks on August 23, 2005.

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.

This report was prepared by Paul Tseng, Project Manager, Bureau of Engineering (BOE) Architectural Division. Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program, BOE; by Bradley Smith, Chief Deputy City Engineer, BOE.

**GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS**

Bidder: Thomsen Landscape

Bid Date: 05/09/2006

PROJECT: South Broadway Pocket Park (PRJ #1109A) (W.O. #E1904755)

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) 847-5172, or by mail to the Bureau of Engineering, Project Award and Control Division, 600 S. Spring, 6 <sup>th</sup> Floor, Los Angeles, Ca. 90014		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 planholder 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.	Phone log dates less than the required 3 days before bid due date	10	0
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
<b>TOTAL POINTS ACHIEVED</b>			<b>90</b>	

**MBE/WBE % ACHIEVED: 16.87%**

MBE= 16.87% WBE=0% OBE=11.94% PRIME=77%