

REPORT OF GENERAL MANAGER

APPROVED
JAN 09 2008

NO. 08-08

DATE January 9, 2008

**BOARD OF RECREATION
and PARK COMMISSIONERS**

C.D. 10

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: LAFAYETTE PARK - RECREATION CENTER (W.O. #E170317F) – REVIEW OF BIDS AND AWARD OF CONTRACT AND ALLOCATION OF SUBDIVISION/QUIMBY FEES

| | | | |
|------------|-------|-----------|---------------------------|
| R. Adams | _____ | J. Kolb | _____ |
| J. Combs | _____ | F. Mok | _____ |
| H. Fujita | _____ | K. Regan | _____ |
| S. Huntley | _____ | *M. Shull | <u><i>[Signature]</i></u> |

[Signature]
General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board:

1. Find Cal-Pac Engineering Co. Inc., to be non-responsive;
2. Find Western Alta Construction Inc., (Western Alta) with a base bid of \$5,943,597, to be the lowest responsive and responsible bidder for the LaFayette Park - Recreation Center (W.O. #E170317F) project;
3. Award the construction contract to Western Alta Construction Inc., in the total contract amount of \$5,943,597, all according to plans and specifications;
4. Authorize the Chief Accounting Employee to encumber up to \$572,070 in Heart of Los Angeles Youth (HOLA) gift funds as these funds are disbursed and deposited in the designated City fund/account, 205/88/CD02;
5. Authorize the Chief Accounting Employee to transfer \$359,171 in Subdivision/Quimby Fees, which were collected in Fiscal Year 2004-2005, from the Subdivision/Quimby Fees 460K-00 to the Lafayette Park Account 460K-LD;
6. Authorize the Chief Accounting Employee to transfer \$803,492.08 in Subdivision/Quimby Fees, which were collected in Fiscal Year 2005-2006, from the Subdivision/Quimby Fees 460K-00 to the Lafayette Park Account 460K-LD;

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7. Approve the allocation of \$1,165,704 in Subdivision/Quimby Fees from the Lafayette Park Account 460K-LD for the Lafayette Park – Recreation Center, as described in the summary of this report;
8. Authorize the Chief Accounting Employee to encumber \$4,543,597 in available funds and upon approval of the City Engineer’s Report for the fiscal year 2008-2009, \$1,400,000 in Proposition K Year 12 Funds, from the following fund and account numbers under the awarding authority of this Board Report;

APPROVED FUNDING

| <u>FUND SOURCE</u> | <u>FUND/DEPT/ACCT</u> | <u>FUNDING AMOUNT</u> | <u>AVAILABLE AMOUNT</u> | <u>ENCUMBRANCE AMOUNT</u> |
|------------------------------|-----------------------|-----------------------|-------------------------|---------------------------|
| Prop K YR 09 | 43K/10/Y468 | \$450,000 | \$425,000 | \$425,000 |
| Prop K YR 10 | 43K/10/A468 | \$200,000 | \$175,400 | \$175,400 |
| Prop K YR 11 | 43K/10/C468 | \$646,728 | \$646,728 | \$646,728 |
| Prop K YR 11 | 43L/10/C468 | \$1,558,695 | \$1,558,695 | \$1,558,695 |
| HOLA Gift Funds ¹ | 205/88/CD02 | \$722,070 | \$0 | \$572,070 |
| Quimby | 302/89/460K-LD | \$1,165,704 | \$1,165,704 | \$1,165,704 |
| APPROVED FUNDING TOTAL | | \$4,743,197 | \$3,971,527 | \$4,543,597 |

PENDING FUNDING

| <u>FUND SOURCE</u> | <u>FUND/DEPT/ACCT</u> | <u>FUNDING AMOUNT</u> | <u>AVAILABLE AMOUNT</u> | <u>PENDING ENCUMBRANCE AMOUNT</u> |
|---------------------------|-----------------------|-----------------------|-------------------------|-----------------------------------|
| Prop K YR 12 ² | TBD | \$1,400,000 | \$0 | \$1,400,000 |
| PENDING FUNDING TOTAL | | \$1,400,000 | \$0 | \$1,400,000 |
| TOTAL | | \$6,143,197 | \$0 | \$5,943,597 |

¹ Subject to approval and execution of the Gift Agreement Amendment, the HOLA Gift Funds, in the total amount of \$722,070 (\$150,000 were allocated to contingency), will be deposited into the account per the agreed Schedule 1.2 of the Gift Agreement between the City, HOLA, and the Everychild Foundation and disbursed towards the construction project accordingly. Funds shall be encumbered for construction related expenses upon each monthly deposit. A portion of the monthly disbursements will be set aside as contingency.

² Proposition K Year 12 funds are contingent upon approval of City Engineer’s Report for the allocation of Proposition K funds for Fiscal Year 08-09 and pending City Council approval in June, 2008.

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9. Request staff to prepare a contract, including a “funding clause,” limiting the City’s liability for the contract payments to the amount of funding appropriated by the City for this contract, which is \$3,971,527, as well as so limiting the contractor’s obligation to perform the contract, as further described in this report;
10. Waive as an informality, pursuant to Charter Section 371(c), the late submittal by Western Alta of Employee Benefit Ordinance (EBO) forms; and,
11. Authorize the Board President and Secretary to execute the contract subject to City Attorney approval as to form.

SUMMARY:

On August 14, 2007, the Board approved final plans and call for bids for the LaFayette Park - Recreation Center (W.O. #E170317F) project, located at 625 LaFayette Park Place, Los Angeles, CA 90057 (Board Report No. 07-178). The Department of Recreation and Parks’ consultant, Kanner Architects, prepared plans for this project, and the City Engineer’s estimate for the construction cost of the base bid for this project is \$6,175,000. The plans provide for several improvements including five additive alternates. The following is a general list of the improvements that are to be made:

1. Demolition of an approximately 4,500 square feet portion of the existing community center, including under floor space housing mechanical equipment.
2. Construction of a new addition of approximately 12,200 square feet, creating an approximately 17,000 square foot recreation center. The addition includes a gymnasium, clubrooms, and accessory spaces constructed of concrete masonry walls with structural steel braced frames, steel roof trusses, and metal roof decking on a pier and grade beam foundation, storefront window wall system, and a “level 5” methane mitigation system.
3. Conversion of existing basement restrooms and mechanical room into new offices, clubroom, mechanical/electrical rooms, and storage.
4. Performance of earthwork to provide a certified pad for parking lot and hardscape.
5. Installation of site landscaping and hardscape.

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ADDITIVE ALTERNATES

Additive Alternate No. 1 – Replacement of existing windows and doors, including frames, in the existing Community Center.

Additive Alternate No. 2 – Installation of acoustic wall panels in new gymnasium.

Additive Alternate No. 3 – Demolition of the existing guardrail at the exterior balcony and installation of a new guardrail.

Additive Alternate No. 4 – Installation of L-shaped counter for computer stations located in southeast corner of room 'C'.

Additive Alternate No. 5 – Removal of acoustic ceiling panels containing asbestos in existing community center and install new acoustic ceiling panels.

On December 18, 2007, fifteen bids were received for this project. The lowest responsive and responsible bidder is Western Alta, with a base bid amount of \$5,943,597, which is \$231,403 below the City Engineer’s estimate. The bid amounts received are as follows:

| <u>BIDDERS</u> | <u>BID AMOUNT</u> | <u>ADD. ALT. #1</u> | <u>ADD. ALT. #2</u> | <u>ADD. ALT. #3</u> | <u>ADD. ALT. #4</u> | <u>ADD. ALT. #5</u> |
|-----------------------------------|-------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 1 CAL-PAC ENGINEERING CO. INC. | \$5,396,186.00 | \$33,750.00 | \$22,655.00 | \$11,400.00 | \$2,000.00 | \$21,540.00 |
| 2 WESTERN ALTA CONSTRUCTION, INC. | \$5,943,597.00 | \$85,550.00 | \$49,300.00 | \$24,200.00 | \$25,000.00 | \$16,000.00 |
| 3 MEPCO SERVICES, INC. | \$6,397,000.00 | \$88,000.00 | \$65,000.00 | \$70,000.00 | \$50,000.00 | \$130,000.00 |
| 4 L. A. BUILDERS, CO., INC. | \$6,450,000.00 | \$35,000.00 | \$75,000.00 | \$28,000.00 | \$12,000.00 | \$195,000.00 |
| 5 STETON CONSTRUCTION GROUP | \$6,461,008.00 | \$50,000.00 | \$300,000.00 | \$30,000.00 | \$10,000.00 | \$35,000.00 |
| 6 G-2000 CONSTRUCTION INC. | \$6,590,000.00 | \$124,000.00 | \$132,000.00 | \$30,000.00 | \$15,000.00 | \$70,000.00 |
| 7 TOWER GENERAL CONTRACTORS | \$6,632,000.00 | \$37,221.77 | \$244,712.83 | \$533.94 | \$10,842.96 | \$125,327.66 |
| 8 MACKONE DEVELOPMENT, INC. | \$6,818,000.00 | \$132,000.00 | \$90,000.00 | \$15,000.00 | \$4,500.00 | \$45,000.00 |

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| | | | | | | | |
|----|--|----------------|--------------|--------------|-------------|-------------|--------------|
| 9 | METRO BUILDERS & ENGINEERS GROUP, LTD. | \$6,820,056.71 | \$86,498.72 | \$41,300.00 | \$33,040.00 | \$7,375.00 | \$40,474.00 |
| 10 | USS CAL BUILDERS, INC. | \$6,878,000.00 | \$94,200.00 | \$67,000.00 | \$48,400.00 | \$26,700.00 | \$78,800.00 |
| 11 | WOODCLIFF CORPORATION | \$6,952,000.00 | \$150,000.00 | \$75,000.00 | \$40,000.00 | \$15,000.00 | \$180,000.00 |
| 12 | PERERA CONSTRUCTION & DESIGN, INC. | \$7,000,000.00 | \$165,000.00 | \$66,000.00 | \$20,000.00 | \$10,000.00 | \$60,000.00 |
| 13 | ICON WEST, INC. | \$7,122,900.00 | \$115,000.00 | \$92,000.00 | \$32,000.00 | \$8,000.00 | \$140,000.00 |
| 14 | MCEC, INC. | \$7,251,102.00 | \$73,333.00 | \$46,647.00 | \$27,215.00 | \$40,058.00 | \$19,877.00 |
| 15 | MOMENT CONST CO. INC. | \$8,277,000.00 | \$47,000.00 | \$427,000.00 | \$38,700.00 | \$21,800.00 | \$48,700.00 |

The bid document specified the low bidder would be determined to be the lowest responsive and responsible bidder submitting the lowest base bid without regard to the alternate items. Cal-Pac Engineering Co., Inc., submitted the lowest bid, as shown above, but was determined to be non-responsive as their participation as the prime contractor was shown to be approximately 10% of the base bid amount which is substantially less than the minimum 20% required.

The second low bidder, Western Alta, was determined to be responsive. Schedule A, Subcontractors and Suppliers, of the bid documents submitted by Western Alta, shows the names of up to 27 potential subcontractors (one subcontractor was listed twice) but only provided dollar values for sixteen of the 27 subcontractors. While State law and the City Administrative Code, Section 10.14, only require that the prime contractor list those subcontractors that will provide ½ of 1% of the base bid or \$10,000, whichever is greater, in work for the project, the City Attorney has advised that the bidder must specify the dollar value amount for each subcontractor listed if listing is required or the bidder will be obligated to self-perform the work. Western Alta is licensed to do the work that will not be performed by the 11 subcontractors listed on Schedule A with no dollar amount for the associated work listed, and understands that they must self-perform this work, unless it is valued at under \$10,000. As such, if the Board approves to award the construction contract to Western Alta, it is recommended that there be a limitation included in the contract stating that Western Alta cannot enter into any subcontracts with any subcontractor, either listed in the bid without a dollar amount or not listed, for work in excess of \$10,000.

There is \$2,805,823 available for construction funding from Proposition K funds appropriated to this project. Currently, \$3,040.92 is available in the Subdivision/Quimby Fees in the Lafayette Park Account 460K-LD. Upon approval of this report, Subdivision/Quimby Fees in the following amounts: \$359,171, collected during Fiscal Year 2004-2005, and \$803,492.08 collected during

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Fiscal Year 2005-2006, can be transferred from the Subdivision/Quimby Fees Account 460K-00 to the Lafayette Park Account 460K-LD. The total Subdivision/Quimby Fees allocation for the Lafayette Park – Recreation Center is \$1,165,704. These Subdivision/Quimby Fees were collected within two miles of the Lafayette Park, which is the standard distance for the allocation of the Subdivision/Quimby for community recreational facilities. Staff is requesting approval of \$1,165,704 in Subdivision/Quimby fees.

An additional \$572,070 is available through disbursements from a gift from the non-profit group Heart of Los Angeles Youth, Inc. (HOLA) as described in Board Report No. 07-217 dated September 19, 2007, conditioned on the award of the construction contract by December 31, 2007. Approval to amend the Gift Agreement to extend the contract award date to January 9, 2008 is scheduled for today's agenda (Board Report No. 08-07). Upon approval of the amendment, a total of \$4,543,597 will be approved to fund the construction contract. The HOLA funds will be available for encumbrance as funds are deposited to the City on a monthly basis, under the authority of this Board Report. The remaining funds, in the amount of \$1,400,000, to fully encumber the contract, are contingent upon the City Council's approval of the Year 12 Engineer's Report for the allocation of Proposition K Year 12 funds for the fiscal year 2008-09. It is anticipated the Council will act on the 2008/2009 Engineer's Report in June, 2008. The contract will provide that the City's liability for contract payments under this contract shall only be to the extent of the City appropriation to fund the contract. If the City does appropriate the additional funding through City Council approval of the Year 12 Engineer's Report for the Proposition K program, 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 the current funding, plus additional funding appropriated by the City, if any, for this project. When the remaining funds are approved and appropriated to the project, the Department's Chief Accounting Employee will encumber the balance required to fund the project.

The L.A. for Kids Steering Committee has been informed that completion of the project is contingent upon City Council approval of the 2008/2009 City Engineer's Report.

Staff has reviewed the subcontractor outreach effort made by Western Alta, and based on the documents submitted, has determined that a "good faith" effort has been made. Western Alta satisfied 90 of the 100-point requirement outlined by the Board's Outreach Program which requires a score of at least 75 points to constitute a good faith effort. 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 bids submitted by Western Alta, and found them to be in order. Staff recommends that the Board find Western Alta to be the lowest responsive and responsible bidder with the further limitation that Western Alta cannot enter into any subcontract for base bid work in excess of \$10,000 that is not already identified in the submitted bid documents with a specified dollar amount, as discussed above.

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Western Alta did not submit EBO forms with their bid package. The Administrative Code Section 10.8.2.1(c) provides that the contracting entity shall not contract with a contractor that discriminates in violation of the Equal Benefits Ordinance. The ordinance does not itself require that the Equal Benefits Ordinance Compliance Form be submitted with the bid. It is only the bid solicitation document that requires the form to be submitted with the bid. The bidder has since submitted the form and pursuant to Charter Section 371(c), the Board may waive the late submittal as an informality in that late submittal of the form does not affect the bid price nor does it provide the bidder with any competitive advantage over other bidders.

Staff reviewed the responsiveness and work performance of Western Alta, 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.

In compliance with the California Environmental Quality Act (CEQA), staff has determined that the proposed improvements will not have a significant impact on the environment. The environmental document for this project includes six (6) mitigating measures, as approved by both the Board on June 16, 2004 (BR #04-211) and the City Council on June 22, 2004 (CF #04-0529), and have been addressed and incorporated into the construction documents. A Notice of Determination was filed with the Los Angeles City Clerk's office on June 23, 2004, and posted by the County Clerk's office on June 23, 2004.

FISCAL IMPACT STATEMENT:

There is no anticipated fiscal impact to the Department's budget because the project's construction costs are anticipated to be fully funded from the above listed funding sources specifically identified and to be approved for this project. However, as indicated in this report, should the Council fail to appropriate Proposition K Year 12 funds sufficient to make up the current shortfall, other funds would be needed to complete the project. The assessments of the future operations and maintenance costs have yet to be determined and would be addressed in future budget requests.

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

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: Western Alta Construction , Inc.

Bid Date: 12/18/07

PROJECT: LA FAYETTE PARK – RECREATION CENTER (W.O. #E170317F)

| 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 | |
| 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 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. | | 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. | Letters were faxed less than 15 calendar days before bid date. | 10 | 0 |
| 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 | | | 90 | |
| MBE/WBE % ACHIEVED: | | | 30% | |

MBE= 21% WBE= 9% OBE= 2% PRIME= 19%

RESPONSIVE