

APPROVED
MAR 04 2009

REPORT OF GENERAL MANAGER

NO. 09-029

DATE February 18, 2009

BOARD OF RECREATION
and PARK COMMISSIONERS

C.D. 1

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: **DOWNEY POOL – REPLACEMENT PROJECT (PRJ#1503P)(W.O. #E1906491) –
REVIEW OF BIDS AND AWARD OF CONTRACT**

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

[Signature]
General Manager

Approved *[Signature]* Disapproved _____ Withdrawn _____

RECOMMENDATION:

That the Board:

1. Find the bid of G-2000 Construction, Inc., nonresponsive because it failed to comply with the Board’s subcontractor outreach policy requiring “a good faith effort” to include MBE/WBE/OBE subcontractors;
2. Deny the protest dated October 28, 2008 filed by Icon West, Inc. for the reasons stated in this report;
3. Find Horizons Construction Company International Inc. (Horizons Construction), with a base bid of \$2,239,555, to be the lowest responsive and responsible bidder for the Downey Pool – Replacement Project (#1503P)(W.O. #E1906491);
4. Award the contract to Horizons Construction, for a total award amount of \$2,239,555, all according to the plans and specifications;
5. Receive and file correspondence contained in Attachment A (correspondence from Icon West Inc., dated October 28, 2008) and in Attachment B (correspondence from Horizons Construction, dated December 19, 2008);

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6. Authorize the Chief Accounting Employee to encumber funds in the amount of \$2,239,555 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>FUND AMOUNT</u>	<u>APPROPRIATION AMOUNT</u>
Municipal Improvement Corporation of Los Angeles (MICLA) Fiscal Year 2008-09	298/88/A218	\$4,411,000	\$2,239,555
TOTAL:		\$4,411,000	\$2,239,555

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

SUMMARY:

On July 9, 2008, the Board approved the final plans and call for bids for the Downey Pool – Replacement Project (#1503P)(W.O. #E1906491), located at 1775 North Spring Street, Los Angeles, CA 90031 (Board Report No. 08-191). Plans for this project were prepared by the design consultant, Fisher Sehgal Yanez (FSY) Architects, Inc., under the direction of the Bureau of Engineering (BOE), Architectural Division.

The proposed scope involves the demolition of the existing deteriorated, aging swimming pool and pump house; construction of a new 38 foot x 75 foot swimming pool and a new activity pool along with new pump house, decorative pool decking, perimeter fencing, landscaping and irrigation. The new pool will serve youth and adult swimming classes as well as recreational swimming.

The City Engineer’s estimate was \$3,759,000. Four Deductive Alternates were identified, with the work associated with each Deductive Alternate described as follows:

Deductive Alternate No. 1:

Lump sum price to be subtracted from the Base Bid at the discretion of the Board at the time of award for deletion of all work associated with the Grasscrete pavers, or acceptable equivalent grass concrete pavers, as shown in the plans and specifications, and replacing Grasscrete pavers (or acceptable equivalent) area with 6-inch thick reinforcing concrete paving with medium broom finish to match existing, as shown in det. #1/C7.00 in the plans and specifications.

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Deductive Alternate No. 2:

Lump sum price to be subtracted from the Base Bid at the discretion of the Board at the time of award for deletion of all work associated with the outdoor concrete benches, as shown in the plans and specifications, and replacing outdoor concrete benches area with 6-inch thick reinforcing concrete paving with medium broom finish to match surrounding areas, as shown in det. #1/C7.00 in the plans and specifications.

Deductive Alternate No. 3:

Lump sum price to be subtracted from the Base Bid at the discretion of the Board at the time of award for deletion of all work associated with the outdoor umbrellas, as shown in the plans and specifications.

Deductive Alternate No. 4:

Lump sum price to be subtracted from the Base Bid at the discretion of the Board at the time of award for deletion of all work associated with the Lithocrete, or acceptable equivalent seeded concrete, as shown in the plans and specifications, and replacing Lithocrete (or acceptable equivalent) with integral colored stamped concrete, as shown in the plans and specifications.

On September 30, 2008, the Board received a total of sixteen (16) bids as follows:

<u>Bidders</u>	<u>Base Bid</u>	<u>Ded. Alt. 1</u>	<u>Ded. Alt. 2</u>	<u>Ded. Alt. 3</u>	<u>Ded. Alt. 4</u>
G-2000 Construction Inc.	\$2,186,000	\$10,000	\$7,000	\$3,000	\$7,000
Horizons Construction Company International, Inc.	\$2,239,555	\$6,800	\$8,400	\$16,800	\$33,000
Icon West, Inc.	\$2,289,000	\$0	\$17,700	\$15,000	\$35,400
Mills Construction Company	\$2,300,000	\$0	\$5,300	\$15,000	\$71,000
Hanan Construction Co., Inc	\$2,429,000	\$2,400	\$7,600	\$2,500	\$69,000
HMI Construction Service	\$2,431,000	\$7,000	\$10,500	\$3,000	\$101,500
Bitech Construction Co., Inc.	\$2,472,000	\$3,200	\$5,000	\$3,000	\$31,500
Tobo Construction, Inc.	\$2,498,000	\$14,800	\$12,000	\$11,000	\$12,000
CTP Construction, Inc.	\$2,598,000	\$0	\$2,000	\$4,000	\$56,000
Kahromic Contracting, Inc.	\$2,615,000	\$3,000	\$10,000	\$15,000	\$70,000
Western Group, Inc.	\$2,690,000	\$3,000	\$7,000	\$17,000	\$40,000
Morillo Construction, Inc.	\$2,747,000	\$800	\$7,000	\$12,600	\$14,200
EMAE International, Inc.	\$2,898,035	\$7,950	\$25,000	\$5,000	\$60,000
Moment Construction Co., Inc.	\$2,947,000	\$5,700	\$17,000	\$18,500	\$41,700

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<u>Bidders</u>	<u>Base Bid</u>	<u>Ded. Alt. 1</u>	<u>Ded. Alt. 2</u>	<u>Ded. Alt. 3</u>	<u>Ded. Alt. 4</u>
USS Cal Builders, Inc.	\$2,964,000	\$3,200	\$6,900	\$30,000	\$10,000
CWS Systems, Inc.	\$3,199,000	\$9,000	\$9,074	\$16,000	\$56,000

The bid documents stated that the determination of the lowest bidder would be based on the Base Bid amount without the consideration of any Deductive Alternate. This project is also subject to the Minority Business Enterprise, Women Business Enterprise, and other Business Enterprise (MBE/WBE/OBE) Subcontractor Outreach Program. In order to comply with the Good Faith Effort Outreach (GFE) requirements of the Subcontractor Outreach Program, bidders must submit GFE documentation sufficient to achieve a minimum of 75 out of 100 GFE evaluation points as outlined in Board's Outreach Program.

G-2000 Construction, Inc., submitted the apparent lowest Base Bid as indicated above. However, the bid of G-2000 Construction, Inc., was deemed non-responsive for failing to comply with the requirements of the Minority Business Enterprise, Women Business Enterprise, and other Business Enterprise (MBE/WBE/OBE) Subcontractor Outreach Program. G-2000 Construction, Inc., achieved only 25 out of 100 GFE evaluation points. (See attached)

Icon West, Inc., the apparent third low bidder, filed a bid protest (Attachment A) challenging the bid of Horizons Construction, the apparent second low bidder, for: 1) failing to list on Schedule "A" a licensed asbestos and lead abatement subcontractor and a licensed specialty concrete floor installer; and 2) failing to list a description of the work to be done directly by the prime bidder and the dollar value of the work to be performed by the prime bidder. Subsequently, Horizons Construction provided a letter responding to the issues raised by Icon West, Inc., (Attachment B). Staff has reviewed the situation and determined that the bid protest by Icon West, Inc., has no merit.

Regarding the issue of listing subcontractors licensed to do asbestos and lead abatement in Schedule "A", City of Los Angeles Administrative Code Section 10.14 requires that the bidder state the name and address of each subcontractor who will perform work to the bidder in an amount in excess of one-half of one percent (1/2%) of the prime contractor's total bid or \$10,000, whichever is greater, and the portion of work which will be done by the subcontractor. The bid specifications require that the asbestos and lead abatement work and the specialty concrete floor installation be done by properly licensed contractors. The Horizons' bid did list the subcontractor (Doja, Inc.) that will do the asbestos and lead removal via their sub-subcontractor (ACT, Inc.) who is properly licensed for such abatement work. Similarly, Horizons' bid did list the subcontractor (Cal-United Construction) who will do the specialty concrete work via its sub-subcontractor (Shaw & Sons) who is properly licensed. The legal requirement is that the specialty work be done by a licensed contractor, which licensure will be confirmed by the City's Bureau of Contract Administration before the work begins.

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The Instructions to Bidders requires that the prime contractor shall perform, with its own organization, contract work amounting to at least 20% of the base bid price. Based on information provided in Horizons bid on Schedule "A", the sum total of the work being done by the listed subcontractors amounts to 65% of the base bid. Thus, Horizons, the prime contractor will be performing 35% of the base bid amount, which exceeds the prime contractor self-performance requirement of 20% as specified in the bid documents. Horizons' failure to list the dollar amount and the description of the base bid work they will perform is insignificant and inconsequential because the type and dollar value of the work to be performed by the prime contractor can be determined from what was specified to be performed by the listed subcontractors.

Based on the above, Horizons Construction is the lowest responsible and responsive bidder and the protest filed by Icon West, Inc., should be denied.

In summary, Horizons Construction Company International, Inc., the apparent second lowest bidder, achieved a MBE/WBE participation of 2.46%, and satisfied 81 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 bid submitted by Horizons Construction Company International, Inc., and found it to be in order; therefore, staff recommends that the Board find Horizons Construction Company International, Inc., to be the lowest responsive and responsible bidder. There is sufficient funding to award the entire project without exercising any of the Deductive Alternates.

Staff has determined that the subject project will consist of the replacement of the existing pool and equipment. Therefore, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(1) and Class 2(5) of the City CEQA Guidelines. A Notice of Exemption will be filed with the Los Angeles City Clerk and the Los Angeles County Clerk.

FISCAL IMPACT STATEMENT:

There is no immediate fiscal impact to the Department's General Fund; however, 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 Willis Yip, Project Manager, BOE Architectural Division. Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program, Bureau of Engineering; Deborah Weintraub, AIA, Chief Deputy City Engineer, Bureau of Engineering; and by Michael A. Shull, Superintendent, Planning and Development Division, Department of Recreation and Parks.

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: G-2000 CONSTRUCTION, INC.

Bid Date: 09/30/2008

PROJECT: **Downey Pool Replacement Project (W.O. #E1906491)**

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.	Did not attend pre-bid meeting.	10	0
3 Work Areas	Proof of this must be demonstrated in either Indicator 4 or 5.	No statement about work areas on letters sent out to sub-contractors.	13	0
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.	No proof of ad sent out by prime contractor submitted.	9	0
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.	No outreach letters submitted.	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 subcontractors 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.	No summary sheet and only two quotes of the nine listed subcontractors listed on Schedule "A" were submitted.	26	0
10 Bonds	Include in Indicator 4 or 5, information about the bidder's efforts to assist with bonds, lines of credit and insurance.	No statement on the letters sent out to subcontractors regarding assistance with bonds.	7	0
TOTAL POINTS ACHIEVED			25	
MBE/WBE % ACHIEVED:			1/0	

MBE= 1% WBE= 0 OBE= 0% PRIME=100%

NON-RESPONSIVE!

GOOD FAITH EFFORT CHECKLIST- EVALUATION RESULTS

Bidder: HORIZONS CONSTRUCTION CO. INT'L., INC.

Bid Date: 09/30/2008

PROJECT: **Downey Pool Replacement Project (W.O. #E1906491)**

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 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.	Ad was sent out only 14 calendar days before bid date.	9	0
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.	No outreach letters submitted.	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			81	
MBE/WBE % ACHIEVED:			2.46/0	

MBE = 2.46% WBE = 0% OBE = 62.18% PRIME = 35.36%

RESPONSIVE!

ATTACHMENT “A”
(Icon West Inc. Bid Protest Letter dated October 28, 2008)

Received:
OCT-28-2008 TUE 06:00 PM icon west

Oct 28 2008 04:57pm
FAX NO. 2133850024

P. 01/01

ICON WEST INC.,

Contractors / Engineers
License No. 747737

520 S La Fayette Park Place, #503
Los Angeles, CA 90057
Tel. No. 213-385-0027
Fax No. 213-385-0824

October 28, 2008

Bureau of Engineering
Department of Public Works
City of Los Angeles
1149 S Broadway, 7th Floor
Los Angeles, CA

Re: **Downey Pool Replacement**
BOE W.O. #E1906491; RAP Project no. PRJ1503P

Dear Sir,

Upon review of the bid package submitted by the apparent 2nd Low bidder (**HORIZONS Construction Co. Int'l.**), and in compliance with the "Subletting and Subcontracting Fair Practices Act", His bid is non responsive due to his failure to list appropriate subcontractor in the following categories and also failed to fill up the bid form as described below;

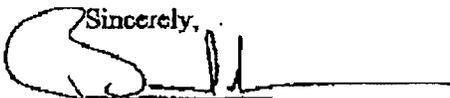
1.) **ABATEMENT** - Section 02051, Asbestos & Lead Abatement shall be performed by a license professional Abatement contractor, The prime bidder Horizons Construction Co., Int'l listed Doja Inc. who is not a license Abatement contractor.

2.) **LITHOCRETE** - Section 02518, Item 3.4, A. **SURFACE-SEEDED AGGREGATE INSTALLATION**, A "Lithocrete is a patented paving process. Installation of Lithocrete surface-seeded aggregate must be performed only by a license Lithocrete installer." The prime bidder Horizons Construction Co., Int'l failed to list a license installer.

3.) **Schedule "A" - SUBCONTRACTORS & SUPPLIERS**, "The Prime contractor shall perform with its own organization, Contract work amounting to at least 20 percent of the Base Bid Price unless otherwise instructed." The Prime bidder Horizons Construction Co., Int'l failed to list the **DESCRIPTION OF THE BASE BID WORK TO BE PROVIDED DIRECTLY BY THE PRIME BIDDER** and also failed to write the **DOLLAR VALUE OF BASE BID TO BE PERFORMED BY PRIME BIDDER.**

In view of the above cited non compliance with the public contract code of the state of California, We hereby submit our formal protest to award the bid to the apparent 2nd low bidder **Horizons Construction Co., Int'l.**

Sincerely,



Bernard Ashkar
CEO

2008 OCT 29 AM 11:18
RECEIVED
PUBLIC WORKS COMMISSIONERS

PER YOUR REQUEST:	
Post-It® Fax Note	7671
To	LATONYA DEAN
Co./Dept.	RAP BLDG OFF
Phone #	(213) 928-9040
Fax #	(213) 928-9040
Date	10/28/08
From	APRIL DEAN
Co./Dept.	RED BLDG OFF
Phone #	(213) 247-2525
Fax #	(213) 247-2525

ATTACHMENT “B”
(Horizon Construction Co., Intl. Bid Protest Response Letter
dated December 19, 2008)

HORIZONS
CONSTRUCTION CO., INTL.
General Contracting and Engineering

December 19, 2008

City of Los Angeles
Secretary of the Board - Recreation and Park Commissioners.
1200 West 7th Street, Suite 762
Los Angeles, California, 90017

Attn. Ms. Mary Alvarez

Re: Downy Pool Replacement Project, W.O. #E1906491) Project No. PRJ1503P

Dear Ms. Alvarez,

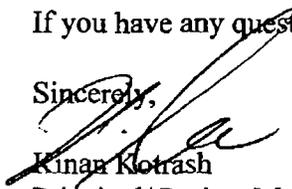
Horizons Construction received today from your office a copy of a protest letter against our bid submitted by Icon West Inc. Dated October 28, 2008 (see attached). In response, Horizons bid should be considered responsive for the following reasons:

- 1) Horizons listed Doja Inc., to do all demolition work for the project. Abatement of Hazardous Materials (HAZMAT) is included in Doja's bid and will be performed by the licensed HAZMAT Subcontractor, ACT Inc., Lic. No. 842062 (Please see attached clarification letter from Doja, Inc.)
- 2) Regarding the Lithocrete surfacing work, the installation portion of the work will be performed by the licensed installer, Shaw & Sons of Costa Mesa under our Sitework Subcontractor, Cal-United Construction.
- 3) Regarding Schedule "A", the total dollar value of listed subcontractors under Horizons Construction is less than 70% which in compliance with project requirements. All other work that is more than 1/2 Percent of total project and not listed in subcontractors work will be performed by Horizons Construction's own forces.

Based on the above facts, Horizons Construction's bid is responsive and in compliance with project requirements.

If you have any questions, please contact our office. Thank you for your attention.

Sincerely,


Kinan Klotrash
Principal/ Project Manager

Doja, Inc.
Engineering Contractors
License No. 597764

December 19, 2008

Estimating department
Horizon CCI Services Inc.
Anaheim, CA
Ph. 714/ 563-1600 F 714/ 563-1503

Re: Downey Pool Replacement Proposal

As indicated before on bid day, the abatement of hazardous material is included in our proposal for the Downey Pool Replacement and will be performed by our subcontractor: ACT Inc. CA LIC. No. 842062, DOSH NO. 870.

Sincerely,

Jed Issa

A handwritten signature in black ink, appearing to read 'Issa', with a long horizontal stroke extending to the right.