

REPORT OF GENERAL MANAGER

APPROVED

NO. 11-275

DATE October 5, 2011

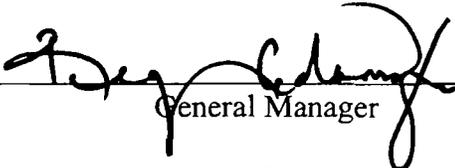
OCT 05 2011

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ROSECRANS RECREATION CENTER – SPORTS FIELDS IMPROVEMENTS AND STORMWATER ENHANCEMENTS (W.O. #E170425F) PROJECT – REVIEW OF BIDS AND AWARD OF CONTRACT

R. Adams	_____	K. Regan	_____
H. Fujita	_____	*M. Shull	<u>anf</u>
V. Israel	_____	N. Williams	_____



 General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Find Horizons Construction International, Inc. (Horizons), with a base bid of \$3,023,000, to be the lowest responsive and responsible bidder for the Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F) project;
2. Award a contract to Horizons for the base bid amount of \$3,023,000 and exercise Additive Alternate No. 1 in the amount of \$6,040, Additive Alternate No. 2 in the amount of \$5,400, Additive Alternate No. 3 in the amount of \$36,600, Additive Alternate No. 4 in the amount of \$46,500, Additive Alternate No. 5 in the amount of \$21,200, Additive Alternate No. 6 in the amount of \$7,800, Additive Alternate No. 7 in the amount of \$18,400, and Additive Alternate No. 8 in the amount of \$30,600, for a total contract amount of \$3,195,540, all according to the plans and specifications for the project;
3. Authorize the Chief Accounting Employee to encumber funds in the amount of \$3,195,540, from the following fund and account numbers under the award authority of this Board Report;

<u>Fund Source</u>	<u>Fund/Dept./Acct. No.</u>	<u>Encumbrance Amount</u>
Proposition K - Year 9	43K/10/10Y584	\$ 13,508
Proposition K - Year 10	43K/10/10A584	\$ 5,600

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Proposition K - Year 11	43K/10/10C854	\$ 50,000
Proposition K - Year 12	43K/10/10E584	\$ 150,000
Proposition A ⁽¹⁾	TBD	\$ 68,970
Sites & Facilities ⁽²⁾	209/88/88G220	\$ 143,800
Quimby ADA / Quimby	302/89/89460K-RA	\$ 48,335
Proposition O	16T/50/50FC14	<u>\$2,715,327</u>
Total:		\$3,195,540

(1) Subject to final approval by the County of Los Angeles.

(2) As of July 27, 2011, the appropriation account balance is zero. The budgetary amount will be re-appropriated upon Council approval, as part of the First Construction Projects Report – FY2011-2012.

4. 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 \$2,982,770, as well as so limiting the contractor’s obligation to perform the contract, as further described in the Summary of this Report, subject to approval by the City Attorney as to form; and,
5. Authorize the Board President and Secretary to execute the contract subsequent to review and approval by the City Attorney as to form.

SUMMARY:

On March 23, 2011, the Board approved the final plans and called for bids for the Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F) project, located at 840 West 149th Street, Los Angeles, California 90247 (Board Report No. 11-087). Plans for this project were prepared by Withers & Sandgren, Ltd., under the direction of the Bureau of Engineering (BOE), Recreation and Cultural Facilities Program.

The City of Los Angeles is proposing to improve the existing sports facilities at the Rosecrans Recreation Center with the construction of a baseball field, girls’ softball field, synthetic turf soccer field, basketball court, a reconstructed parking lot, landscaping, lighting, and fencing. Proposition K funds will be used only for the baseball field and girls’ softball field and associated scoreboards, lighting, landscaping and fencing. The remaining recreation improvements will be funded by Quimby, Capital Improvement Expenditure Program (CIEP), and Sites and Facilities (S&F) funds. On March 31, 2011, after the project had been approved to go out to bid, the L.A. for Kids Steering Committee approved the recommendation to allocate residual Proposition A funds to this project, which must only be used for the sports field improvements portion of the project.

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In addition to the sports field improvements, stormwater pollutant reduction measures will be constructed, funded by Proposition O funds. The installation of stormwater enhancement infrastructure at the Rosecrans Recreation Center combined with recreation improvements will contribute to the goal of minimizing pollutant loading into the regional stormwater conveyance system, as proposed in the Rosecrans Recreation Center Stormwater Enhancement Proposition O Final Project Concept Report dated November 3, 2006. The environmental goal of this project is to reduce stormwater pollutants and help the City of Los Angeles meet the Total Maximum Daily Load (TMDL) requirements in the Dominguez Channel Watershed. Targeted pollutants include: bacteria, heavy metals, trash, nutrients, gasoline, oils, grease, and toxic organic compounds. To that end, the proposed stormwater enhancements infrastructure will capture runoff through stormwater Best Management Practices (BMPs) such as bio-retention facilities, and media filters before entering the county storm drain. The proposed BMPs to be funded by Proposition O include: the installation of a "smart" irrigation system, bioswales, landscaped retention basins, a synthetic soccer field, site grading, decomposed granite pathways and site landscaping. The water quality benefits resulting from installation of the proposed BMPs would assist in complying with current and future TMDL regulations.

The plans and specifications include the following items: baseball field, girls' softball field with sports field lighting, basketball court, synthetic soccer field, baseball and girls' softball scoreboards, fencing, "smart" irrigation system, bioswales, vegetated retention basins, site grading, site drainage system, "decomposed granite" pathways and site hardscape and landscape. The following improvements were included in the bid as additive alternates in order to gain flexibility in meeting the desired project scope within the available funding:

- | | |
|--------------------------|--|
| Additive Alternate No. 1 | Installation of two (2) benches and concrete pads at play area, and replace concrete pad with decomposed granite paving. |
| Additive Alternate No. 2 | Construction of a planting bed with mow curb and decomposed granite surrounding the park sign in northwest corner. |
| Additive Alternate No. 3 | Construction of a concrete walkway along west facade of community building in northwest corner of park. |
| Additive Alternate No. 4 | Installation of four (4) bleachers and concrete pads at north and south center line of soccer field. |
| Additive Alternate No. 5 | Installation of trash enclosure at south end of parking lot. |
| Additive Alternate No. 6 | Installation of basketball half court. |
| Additive Alternate No. 7 | Installation of drinking fountains at baseball, soccer and girls' softball fields. |
| Additive Alternate No. 8 | Installation of scoreboards at the soccer mid-field north side and provide stub out for possible future electrical uses. |

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Additive Alternate No. 9 Construction of decomposed granite pathway with concrete curb from parking lot to girls' softball field.

The availability of additional Proposition A funds, in the amount of \$68,970 required to fully fund the projects, is contingent upon the receipt of such funds from the County. The Department is in the process of requesting these funds from the County. The Proposition A grant program operates on a reimbursement basis and only costs incurred after the grant agreement is fully executed will be eligible for reimbursement. The grant agreement is expected to be fully executed in approximately 90 days. Additionally, the Sites & Facilities funds are subject to Council approval, which is expected by mid-October, 2011.

The contract will provide that the City's liability for contract payments under this contract shall only be limited to the extent of the City's appropriation to fund the contract. Pursuant to this Board Report, when the Proposition A grant is fully executed and the Sites & Facilities funds are approved, funds will automatically be appropriated to this project and the City's liability for contract payments shall be extended to the extent of such appropriation, subject to the terms and conditions of the 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 for this project. When the Proposition A grant agreement with the County is fully executed and the Sites & Facilities funds are approved, the contractor will be notified and the contractor will then be required to complete all contract work, including the base bid and Additive Alternate Nos. 1-8.

On June 7, 2011, the Board received a total of ten (10) bids as follows:

Bidders	Base Bid	Add Alt. No.1	Add Alt. No.2	Add Alt. No.3	Add Alt. No.4	Add Alt. No.5	Add Alt. No.6	Add Alt. No.7	Add Alt. No.8	Add Alt. No.9
C.S. Legacy Construction, Inc.	\$2,957,394	\$7,581	\$7,081	\$22,290	\$66,459	\$32,010	\$33,591	\$29,042	\$24,524	\$6,736
Horizons Construction Company International, Inc.	\$3,023,000	\$6,040	\$5,400	\$36,600	\$46,500	\$21,200	\$7,800	\$18,400	\$30,600	\$113,900
Jeff Tracy Inc., dba Land Forms Landscape Construction	\$3,197,373	\$7,000	\$5,000	\$7,000	\$26,000	\$5,000	\$25,000	\$7,500	\$14,000	\$3,000
Pima Corporation	\$3,263,150	\$6,000	\$7,000	\$15,000	\$45,000	\$45,000	\$22,000	\$35,000	\$30,000	\$12,000
Western Group, Inc.	\$3,430,000	\$40,000	\$40,000	\$75,000	\$60,000	\$100,000	\$60,000	\$25,000	\$75,000	\$30,000

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Bidders	Base Bid	Add Alt. No.1	Add Alt. No.2	Add Alt. No.3	Add Alt. No.4	Add Alt. No.5	Add Alt. No.6	Add Alt. No.7	Add Alt. No.8	Add Alt. No.9
Environmental Construction, Inc.	\$3,526,022	\$8,386	\$1,420	\$13,384	\$61,550	\$46,190	\$37,950	\$35,230	\$23,850	\$10,200
Morillo Construction, Inc.	\$3,668,000	\$12,000	\$15,000	\$27,000	\$25,000	\$36,000	\$44,000	\$16,000	\$24,000	\$29,000
AVA Builders, Inc.	\$4,019,990	\$8,400	\$2,290	\$20,000	\$41,000	\$40,075	\$15,480	\$26,875	\$25,377	\$3,059
Excel Paving Company	\$4,349,178	\$4,000	\$9,000	\$18,000	\$37,000	\$41,000	\$13,800	\$19,000	\$21,000	\$8,000
Ian Thomas Group	\$4,485,000	\$18,750	\$4,850	\$9,200	\$28,400	\$56,000	\$34,000	\$32,000	\$58,000	\$88,000

On June 9, 2011, C.S. Legacy Construction, Inc. (C.S. Legacy), the apparent lowest bidder, submitted a letter asking to be allowed to withdraw its bid because a mistake had been made in its bid as submitted. C.S. Legacy explained that approximately four minutes before the deadline for submitting bids to the Department a subcontractor had changed its proposal for electrical work and installation of a scoreboard. The subcontractor had increased its proposal price by more than \$300,000 over what the subcontractor had previously proposed. C.S. Legacy immediately attempted to contact its bid runner to instruct the runner not to submit the bid, but was not able to contact the runner as there was apparently no cell phone service within the building at or near the office where the bids were to be submitted. Because of the last-minute change in the subcontractor's proposal, the bid that was submitted by C.S. Legacy resulted in underbidding the project by over \$300,000, which was materially different than what C.S. Legacy had intended. Pursuant to Paragraph 5, Page 3A of the Instructions to Bidders for this Project, C.S. Legacy's request to withdraw its bid was appropriately filed within five days of the receipt of bids and was based on a mistake in the bid and not in judgment.

The bid documents provided that the bids were to be in effect for 90 days from the receipt of bids, thus the bids were to expire on September 5, 2011. Because of the length of time it was taking to evaluate the responsiveness of the bids and because changes were being made to funding allocations, on August 10, 2011, all bidders were sent a letter asking them to extend their bids and bid bonds until October 20, 2011.

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The following four bidders extended their bids and bid bonds and their bids were reviewed for responsiveness and responsibility:

2 nd Lowest Base Bid	Horizons Construction Company International, Inc.
3 rd Lowest Base Bid	Jeff Tracy, Inc., dba Land Forms Landscape Construction
4 th Lowest Base Bid	Pima Corporation
6 th Lowest Base Bid	Environmental Construction, Inc.

The bid documents stated that the determination of the lowest bidder would be based on the Base Bid amount without the consideration of any Additive Alternates. C.S. Legacy Construction, Inc., the original apparent lowest bidder, was no longer eligible to be considered for award of the contract because its bid expired on September 5, 2011. C.S. Legacy did not extend its bid, presumably because it had previously submitted a request to withdraw its bid due the mistake in the bid price. There is no need for the Board to act on C.S. Legacy's request to withdraw its bid because the bid has expired.

This project is 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 outreach effort (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 on the Board's Outreach Program. Horizons, the apparent second lowest bidder, satisfied 80 out of the 100-point requirements outlined by the Board's Outreach Program. The outreach documentation package is on file in the Board Office, and a synopsis of said package is attached to this report (Attachment No. 1).

On June 9, 2011, a Bid Protest (Attachment No. 2) was filed by legal counsel for Pima Corporation, the apparent fourth lowest bidder, claiming that the three lowest bidders had not submitted their Bidder Certification CEC Form 50 (CEC Form 50) at the bid due date of June 7, 2011, therefore their bids should be declared as non-responsive and the contract be awarded to Pima Corporation. At the time of the bid opening, Department staff had inspected each bid package, and had confirmed that the CEC Form 50 was in fact included in the bid packages for nine of the 10 bidders. AVA Builders, Inc., the eighth lowest bidder was the only bidder that had not included CEC Form 50 in its bid.

At the time of bid opening, Department staff had discovered and announced that the Los Angeles County Proposition A, Community Business Enterprise (CBE) Program form had not been submitted in the bid packages for five of the ten bidders, including the three lowest bidders. The CBE form had been transmitted to potential bidders via Addendum No. 6 (Attachment No. 3). It should be noted that neither the Addendum No. 6 nor the CBE form itself specify that the CBE form "must be submitted with the bid" nor does either document specify that "failure to submit with the bid will render the bid non-responsive." The County uses the CBE form only to gather statistical information about the ethnic composition of the business entity submitting the bid as well as whether

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the firm is certified as a minority, women-owner, and disadvantaged or disabled veterans business enterprise. The CBE form specifically states that gender, race, creed, or color will not be considered in awarding the contract. The CBE form has no bearing on the pricing of the bid and does not create any competitive advantage to any bidder over another. The information solicited in the CBE form is not considered in determining which bidder is the lowest responsive and responsible bidder. Thus, the County has informed the Department that the completed CBE form may be submitted after receipt of the bids, but before the contract is awarded.

At bid opening, Department staff used a checklist to record whether certain listed documents were included in the bid packages for each bidder. Attached are the checklists for the second, third, fourth, and sixth lowest bidders (Attachment No. 4) as well as a declaration from LaTonya D. Dean, Commission Executive Assistant I, regarding the bid opening process (Attachment No. 5).

On June 23, 2011, the Department responded to Pima Corporation's Bid Protest explaining that the CEC Form 50 had in fact been included in the three lowest bidders' packages prior to bid opening (Attachment No. 6). On June 30, 2011, legal counsel for Pima Corporation submitted a response reaffirming the Bid Protest and their claim that the CEC Form 50 was omitted from the bid packages for the three lowest bidders (Attachment No. 7). Thereafter, The City Attorney's Office contacted Patrick J. Duffy, III, legal counsel for Prima Corporation to explain the bid opening process and the possibility that his client had misunderstood which forms (the CEC form or the CBE form) were announced at the bid opening to have been missing from some of the bids. Legal counsel also discussed that the CBE form, which is used by the County for statistical purposes only, may be submitted after receipt of the bids but before an award is made. Mr. Duffy indicated he would consult further with his client to determine their next course of action. To date, the Bid Protest has not been withdrawn. Staff recommends that Pima Corporation's Bid Protest be denied because the CEC Form 50 that was required to be submitted with the bid was indeed submitted timely by the second, third, fourth and sixth lowest bidders. Further, even if there was a misunderstanding at bid opening as to which forms were missing from the subject bids, the CBE form was not required to be submitted with the bid, but could be submitted after bid opening but before award of the contract.

Based on the above, Horizons is the lowest responsive and responsible bidder. The City Attorney and staff have reviewed the bid submitted by Horizons, and found it to be in order; therefore, staff recommends that the Board find Horizons, to be the lowest responsive and responsible bidder.

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1 (13) and Class 11 (3), of the City CEQA Guidelines inasmuch as the project is essentially a rearrangement of functions within an existing park or placement of minor accessory structures. None of the limitations on the use of exemption class 11, set forth in State CEQA Guidelines Section 15300.2, apply to this project. A Notice of Exemption was filed with the Los Angeles County Clerk on March 29, 2011.

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FISCAL IMPACT STATEMENT:

A budget request of \$72,000 a year to maintain this facility will be requested in the next budget cycle, which will include funding for one Gardener Caretaker, a part-time staff, materials and supplies. This request will provide adequate maintenance seven days a week, year round. If the funding is not granted, this facility will be included in the existing Pacific Region routes which will result in the reduction of core function on the existing routed facilities.

This report was prepared by Ray Araujo, Project Manager, the Department of Public Works, Bureau of Engineering, Recreation and Cultural Facility Program. Reviewed by Neil Drucker, Program Manager, the Department of Public Works, Bureau of Engineering, Recreational and Cultural Facilities Program,; Deborah Weintraub, Chief Deputy City Engineer, the Department of Public Works, Bureau of Engineering, and Mike Shull, Superintendent, Planning, Construction and Maintenance Division, Department of Recreation and Parks.

GOOD FAITH EFFORT CHECKLIST

Bidder: Horizons Construction Company International, Inc. Bid Date: June 7, 2011

PROJECT: Rosecrans Recreation Center Sports Field Improvements & Stormwater Enhancement Project (E170425F)

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	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 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.		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			80	
MBE/WBE % ACHIEVED:			0% / 0%	

MBE= 0%

WBE= 0%

OBE= 74%

PRIME= 26%

RESPONSIVE

STEPHEN MONTELEONE
(1886-1962)

MONTELEONE & McCRORY, LLP

LAWYERS

A LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS
725 SOUTH FIGUEROA STREET, SUITE 3200
LOS ANGELES, CALIFORNIA 90017-5446
TELEPHONE (213) 612-9900
FACSIMILE (213) 612-9930

ORANGE COUNTY OFFICE
200 WEST SANTA ANA BLVD., SUITE 200
SANTA ANA, CALIFORNIA 92701

TELEPHONE
(714) 565-3170

FACSIMILE
(714) 565-3184

June 9, 2011

OUR FILE NUMBER

16470

HAND DELIVERED:

Los Angeles Board of Recreation and
Park Commissioners
221 North Figueroa Street, Suite 1510
Los Angeles, California 90012

Re: Bid Protest/Rosecrans Recreation Center

BOARD OF RECREATION
AND PARK COMMISSIONERS
2011 JUN -9 PM 2:14

Dear Commissioners:

We represent Pima Corporation, the lowest responsible bidder to your Rosecrans Recreation Center - Sports Fields Improvements and Stormwater Enhancements project for which bids were received on June 7, 2011.

While our client was the fourth bidder in price, the three bidders with lower prices all failed to include "Bidder Certification CEC Form 50" fully executed with their bid, or at all. Only Pima Corporation of the four lowest bidders complied with this requirement.

While the law affords a public agency some discretion in waiving defects that discretion does not apply to failures stated as mandatorily non-responsive in the bid proposal. Form 50 states clearly on the top of the form, as follows:

**FAILURE TO SUBMIT THIS FORM WITH THE BID
WILL RESULT IN THE BID BEING NON-RESPONSIVE.**

Since C.S. Legacy, Horizon Construction Company, and Landform Landscapes Construction did not include Form 50 with their bids, they must mandatorily be declared non-responsive. The City of Los Angeles is afforded *no* discretion in this matter. It must declare the three bidders non-responsive and award the contract to the lowest *responsible* bidder (Pima

LAW OFFICES
MONTELEONE & McCRORY, LLP

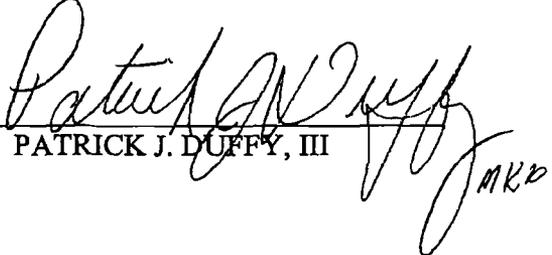
Los Angeles Board of Recreation and
Park Commissioners
June 9, 2011
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Construction) or reject all bids and re-bid the project. As my client is highly qualified and within the reasonable bid range amount, it requests the Commissioners to award the contract to it.

Very truly yours,

MONTELEONE & McCRORY, LLP

By


PATRICK J. DUFFY, III MKD

PJD:mkd

CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

May 20, 2011

ADDENDUM NO. 6

**TO THE CONTRACT DOCUMENTS
FOR THE FOLLOWING PROJECT:**

**ROSECRANS RECREATION CENTER SPORTS FIELDS IMPROVEMENTS
AND STORMWATER ENHANCEMENT PROJECT**

WORK ORDER #E170425F

**Located at:
840 WEST 149TH STREET,
LOS ANGELES, CA 90247**

Addendum No. 6 is hereby issued for the construction of the Rosecrans Recreation Center – Sports Fields Improvements & Stormwater Enhancement Project (W.O. #E170425F).

MODIFICATION NO.1:

Include "Proposition A" Bid Package Documents for Youth Employment. Submission of a bid will be considered to include the information described herein.

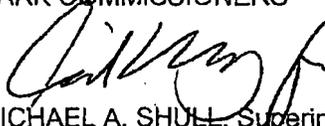
MODIFICATION NO.2:

Include "Proposition A" Bid Package Documents for Additional Insurance Requirement. Submission of a bid will be considered to include the information described herein.

MODIFICATION NO.3:

Include "Proposition A" Bid Package Documents for Community Base Employment. Submission of a bid will be considered to include the information described herein.

**THE BOARD OF RECREATION AND
PARK COMMISSIONERS**


**MICHAEL A. SHULL, Superintendent
Planning, Construction, and Maintenance**

MS/NLD/RA:vb
Attachments

cc: Neil Drucker, Program Manager, BOE, Recreational and Cultural Facilities Program (Stop 549/01)
Ray Araujo, Project Manager, BOE, Recreational and Cultural Facilities Program (Stop 549/01)
Armand Pascua, BOE, Project Award and Control Group (Stop 501)
BOE, Construction Management Division (Stop 500)
Recreation and Parks Board Office (Stop 825/15)
Bureau of Contract Administration (Stop 480)
All Plan Holders
Recreational and Cultural Facilities Program BOE File Copy (Stop 549/01)

Modification 1

YOUTH EMPLOYMENT REQUIREMENTS

A special emphasis on employing youth in park improvement projects was built in the Proposition A, the Safe Neighborhood Parks Proposition of 1992 and 1996 (Proposition A), which is providing total or partial funding for this project.

DEFINITION OF AT-RISK YOUTH

The Regional Park and Open Space District has adopted the following definition of at-risk youth which shall be applicable to all grantees of Proposition A funds as follows:

An individual is considered to be an at-risk youth for purposes of Proposition A if he/she is between 14 and 24 years of age and meets the following definition:

Any individual who is involved in or is at risk of involvement in any of the following: drug and/or alcohol abuse, adolescent pregnancy, parenthood, physical and/or emotional abuse, gang activity, violence and vandalism, poverty, single family unemployment, truancy, and academic performance below grade level or failing to complete high school.

In the application of this definition, an individual is presumed to be an at-risk youth if he/she is between 14 and 24 years of age and at the time of initial hiring **meets at least one additional CRITERION from the following list:**

- A. Over 18 years of age and not graduated from high school
- B. Under 18 years of age and not enrolled in school during an academic year
- C. Has a conviction record of any crime reportable for purposes of employment application
- D. Lives in a neighborhood, as indicated by census tract, which has an unemployment rate at least 20% higher than the County of Los Angeles as a whole, based upon the latest statistics available from the U.S. Census Bureau (This criterion is subject to the caveat that the application data bases must be evaluated further for this application)
- E. Lives in a neighborhood, as indicated by census tract, with a median income less than or equal to 80% of the County of Los Angeles median, based upon the latest statistics available from the U.S. Census Bureau (This criterion is subject to the caveat that the application data bases must be evaluated further for this application)
- F. Is identified as at-risk youth by, referred for employment by, or employed through, any of the following organizations: the California Conservation Corps and any other community conservation corps in existence since at least November 1996, the County of Los Angeles Probation Department, Department of Children and Family Services, Department of Community and Senior Services, the Department of Public Social Services or the County of Los Angeles emancipated foster youth program or the comparable departments or programs of any state or local government grantee of Proposition A funds or is listed in a grantee's adopted Youth Employment Plan as an organization which is a source of youth for hiring, or is referred for employment by, or employed through, organizations demonstrated to the satisfaction of the District Administrator to be similar organizations facilitating the hiring of at-risk youth.
- G. Is identified as at-risk-youth and referred for employment by a school district or community college district or other bona fide educational institution
- H. Is identified as at-risk-youth by, referred for employment by, or employed through a bona-fide non-profit organization whose primary purpose and mission includes fostering or enhancing the employment of at-risk-youth in the County of Los Angeles.
- I. In any other circumstance where the grantee wishes to claim credit for eligible at-risk-youth expenditures, the grantee has the burden to make a showing to make a showing in writing to the satisfaction of the District Administrator that the individual employed meets the intent of the applicable definition or a substantially equivalent definition.

To facilitate compliance with the youth employment provisions, contractors are encouraged to hire youth through a youth employment organization. Youth employment organizations will assist contractors in fulfilling their youth employment obligations. Youth employment organizations are generally equipped to provide the contractor with candidates who satisfy the at risk requirement and who have the appropriate skills and background for each job opening, where the job involves office/clerical skills or basic construction experience. The contractor will be able to interview and select appropriate employees from among those referred. Emphasis will be place on referring youth from within the local community.

The City may withhold payment from the contractor if it is found that a genuine effort was not made in an effort to comply with youth employment requirements.

Rosecrans RC (WO #E170425F) – Addendum 6
Modification No. 2
May 13, 2011

Modification 2

ADDITIONAL INSURANCE REQUIREMENT

Contractor shall carry adequate insurance and have the following named as additionally insured:

Los Angeles County Regional Park and Open Space District
510 South Vermont Avenue, Room 230
Los Angeles, CA 90020

Contractor shall mail a copy of the additional insured endorsement to the above named agency.

Modification 3

EXHIBIT F-3

LOS ANGELES COUNTY COMMUNITY BUSINESS ENTERPRISE (CBE) PROGRAM

FIRM / ORGANIZATION INFORMATION FORM

INSTRUCTIONS: All proposer-bidders responding to this solicitation must return this form for proper consideration of their proposal or bid. The information requested below is for statistical purposes only. On final analysis and consideration of award, a proposer-bidder will be selected without regard to gender, race, creed, or color. Categories listed below are based upon those described in 49 CFR, § 23.5.

I. TYPE OF BUSINESS ENTITY: _____

(Non-profit Corporation, Partnership, Joint Venture, Sole Proprietorship, etc.)

If you are a non-profit, please skip sections II through V and fill in the name of the firm and sign on page 2.

II. TOTAL NUMBER OF EMPLOYEES IN FIRM (including owners): _____

III. RACE/ETHNIC COMPOSITION OF FIRM: (Owners, Partners, Associate Partners, Managers, Staff, etc.)

Please break down the total number of employees in your firm into the following categories:

	OWNERS/PARTNERS/ ASSOCIATE PARTNERS		MANAGERS	STAFF
	Male	Female		
Black/African American				
Hispanic/Latin American				
Asian American				
American Indian/Alaskan Native				
Filipino American				
White				

IV. PERCENTAGE OF OWNERSHIP IN FIRM. Please indicate by percentage (%) how the ownership of the firm is distributed.

	Black/African American	Hispanic/ Latino	Asian or Pacific Islander	American Indian/ Alaskan Native	Filipino American	White
Men	%	%	%	%	%	%
Women	%	%	%	%	%	%

V. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, & DISABLED VETERANS BUSINESS ENTERPRISE

Is your firm currently certified as a minority, women-owned, disadvantaged or disabled veterans business enterprise by a public agency? (If yes, complete the following and attach a copy of your notice of certification.)

	M	W	D	DV	Expiration Date
Agency _____	_____	_____	_____	_____	_____
Agency _____	_____	_____	_____	_____	_____
Agency _____	_____	_____	_____	_____	_____
Agency _____	_____	_____	_____	_____	_____
Agency _____	_____	_____	_____	_____	_____

LEGEND: M = Minority, W = Women, D = Disadvantaged, DV = Disabled Veterans

Bid Submittal Checklist

Recreation and Parks Board Office

Bid Date: June 7, 2011

Project Title: **Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F)**

Contractor: Horizons Construction Company

Required Forms	Were Forms Submitted with the Bid?	
	Yes	No
Page 4 – Schedule of Work and Prices	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 5 – Schedule of Work and Prices/Proposal-Signature Page	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 6 – Affidavit to Accompany Proposals or Bids	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 7 – Bid Bond	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page(s) 16/16A – Schedule A	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 31A – CEC Form 50	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Good Faith Effort Documentation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LA County CBE Program - Firm / Organization Information Form (Add. No. 6)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Bid Submittal Checklist

Recreation and Parks Board Office

Bid Date: June 7, 2011

Project Title: **Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F)**

Contractor: Jeff Tracy, Inc. dba Land Forms Landscape Construction

Required Forms	Were Forms Submitted with the Bid?	
	Yes	No
Page 4 – Schedule of Work and Prices	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 5 – Schedule of Work and Prices/Proposal-Signature Page	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 6 – Affidavit to Accompany Proposals or Bids	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 7 – Bid Bond	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page(s) 16/16A – Schedule A	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 31A – CEC Form 50	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Good Faith Effort Documentation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LA County CBE Program - Firm / Organization Information Form (Add. No. 6)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Bid Submittal Checklist

Recreation and Parks Board Office

Bid Date: June 7, 2011

Project Title: **Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F)**

Contractor: Pima Corporation

Required Forms	Were Forms Submitted with the Bid?	
	Yes	No
Page 4 – Schedule of Work and Prices	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 5 – Schedule of Work and Prices/Proposal-Signature Page	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 6 – Affidavit to Accompany Proposals or Bids	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 7 – Bid Bond	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page(s) 16/16A – Schedule A	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 31A – CEC Form 50	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Good Faith Effort Documentation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LA County CBE Program - Firm / Organization Information Form (Add. No. 6)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Bid Submittal Checklist

Recreation and Parks Board Office

Bid Date: June 7, 2011

Project Title: **Rosecrans Recreation Center – Sports Fields Improvements and Stormwater Enhancements (W.O. #E170425F)**

Contractor: Environmental Construction, Inc.

Required Forms	Were Forms Submitted with the Bid?	
	Yes	No
Page 4 – Schedule of Work and Prices	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 5 – Schedule of Work and Prices/Proposal-Signature Page	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 6 – Affidavit to Accompany Proposals or Bids	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 7 – Bid Bond	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page(s) 16/16A – Schedule A	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Page 31A – CEC Form 50	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Good Faith Effort Documentation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LA County CBE Program - Firm / Organization Information Form (Add. No. 6)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

DECLARATION OF LATONYA DEAN

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2
3 I, LaTonya D. Dean, declare as follows:

4 1. The following declaration is based upon my personal knowledge.

5 If called upon to testify I would testify to the following:

6 2. I am employed as an Executive Assistant to the Board of
7 Recreation and Park Commissioners of the City of Los Angeles. I was present
8 at the bid opening which took place on Tuesday, June 7, 2011, at 3:00 p.m.,
9 for the Rosecrans Recreation Center - Sports Fields Improvements and
10 Stormwater Enhancements (W.O. #E170425F) project (the "Project").

11 3. Ten bids were received by the Tuesday, June 7, 2011, 3:00 p.m.,
12 deadline for submitting bids for the Project. Mary E. Alvarez ("Ms. Alvarez")
13 of the Board of Recreation and Parks Commissioners Office opened and
14 announced the amounts of each bid to an audience that included bidders and
15 City of Los Angeles staff from the Board of Recreation and Parks
16 Commissioners Office and Department of Public Works - Bureau of Engineering.

17 4. Upon opening the ten bids, Ms. Alvarez reviewed each of the bid
18 packages and this was done before an audience that included bidders and City
19 of Los Angeles staff from the Board of Recreation and Parks Commissioners
20 Office and Department of Public Works - Bureau of Engineering.

21 5. Ms. Alvarez reviewed each bid package to confirm whether the
22 following documents were included in the bid package:

- 23 (1) Schedule of Work and Prices
24 (2) Schedule of Work and Prices/Proposal-Signature Page
25 (3) Affidavit to Accompany Proposals or Bids

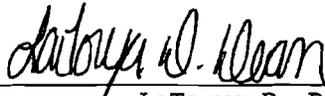
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- (4) Bid Bond
- (5) Schedule A - Subcontractors and Suppliers
- (6) Bidder Certification - CEC Form 50
- (7) Schedule B - Good Faith (GFE) Effort Documentation Checklist
- (8) Los Angeles County Community Business Enterprise (CBE) Program - Firm/Organization Information Form (Addendum No. 6)

6. Subsequent to the review of the three apparent low bids which were submitted by C.S. Legacy Construction, Inc., Horizons Construction, and Jeff Tracy, Inc. dba Land Forms Landscape Construction, Ms. Alvarez, announced that the LA County CBE Program Firm/Organization Information Form was not included with each of those three bid packages. At no point during the bid opening process did Ms. Alvarez announce that the CEC Form 50 was missing from those three bid packages.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 16th day of September, 2011, at Los Angeles, California.


LaTonya D. Dean
Commission Executive Assistant

**BOARD OF RECREATION AND
PARK COMMISSIONERS**

**BARRY A. SANDERS
PRESIDENT**

**LYNN ALVAREZ
W. JEROME STANLEY
JILL T. WERNER
JOHNATHAN WILLIAMS**

CITY OF LOS ANGELES
CALIFORNIA



**ANTONIO R. VILLARAIGOSA
MAYOR**

**RECR1
221 N. FIGUEROA STREET
SUITE 1510
LOS ANGELES, CA 90012**

**(213) 202-2640
FAX: (213) 202-2610
RAP.Commissioners@LACity.org**

**JON KIRK MUKRI
GENERAL MANAGER**

June 23, 2011

VIA FAX AND U.S. MAIL

Patrick J. Duffy, III
Monteleone & McCrory, LLP
725 South Figueroa Street, Suite 3200
Los Angeles, California 90017-5446

**RE: Rosecrans Recreation Center – Sports Fields Improvements and Stormwater
Enhancements (W.O. #E170425F) – Bid Protest**

Dear Gentilepersons:

The Office of the Board of Recreation and Parks Commissioners is in receipt of your protest letter dated June 9, 2011, filed on behalf of your client, Pima Corporation, in protest of the three lowest bidders on the subject project, wherein you allege that the bidders failed to submit "Bidder Certification CEC Form 50" with their bid.

The three lowest bidders for this project, C.S. Legacy Construction, Inc., Horizon Construction Company, and Landform Landscape Construction, did in fact submit their Bidder Certification CEC Form 50 with their bids. Each of those three bidders submitted their bids, which included CEC Form 50, before the bid submittal deadline of 3:00 p.m., Tuesday, June 7, 2011.

Should you choose to withdraw your bid protest in light of the information provided above, please submit a written request to withdraw your protest. However, if you wish to proceed with your protest, please submit a follow-up letter responding to the information provided above and explaining the basis for continuing your bid protest. Submit your request to withdraw your protest or your follow-up letter by 4:00 p.m., June 30, 2011, to the following:

Office of the Board of Recreation and Park Commissioners
221 N. Figueroa Street, Suite 1510
Los Angeles, CA 90012
Attention: Mary E. Alvarez, Commission Executive Assistant II
Fax: (213) 202-2610

Monteleone & McCrory, LLP
Rosecrans Recreation Center – Bid Protest (Pima Corp.)
June 23, 2011
Page 2

If you have any questions or concerns please contact the undersigned at (213) 202-2640.

Very truly yours,

BOARD OF RECREATION AND
PARK COMMISSIONERS


MARY E. ALVAREZ
Commission Executive Assistant

cc: Marcia Gonzales, Deputy City Attorney
Neil Drucker, Project Manager III
Ray Araujo, Project Manager
Pima Corporation

STEPHEN MONTELEONE
(1886-1962)

MONTELEONE & McCRORY, LLP

LAWYERS

A LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

725 SOUTH FIGUEROA STREET, SUITE 3200

LOS ANGELES, CALIFORNIA 90017-5446

TELEPHONE (213) 612-9900

FACSIMILE (213) 612-9930

ORANGE COUNTY OFFICE
200 WEST SANTA ANA BLVD., SUITE 200
SANTA ANA, CALIFORNIA 92701

TELEPHONE
(714) 565-3170

FACSIMILE
(714) 565-3184

JEFFREY S. HURST
PARTNER

June 30, 2011

OUR FILE NUMBER

7046-16470

Via Facsimile and U.S. Mail

Mary E. Alvarez, Commission Executive Assistant II
Board of Recreation and Park Commissioners
222 N. Figueroa Street, Suite 1510
Los Angeles, CA 90012

Re: Rosecrans Recreation Center - Sports Fields Improvements and Stormwater
Enhancements (W.O. #E170425F) - Bid Protest

Dear Ms. Alvarez:

We are in receipt of your letter dated June 23, 2011 responding to the above referenced bid protest. Please be advised that Pima Corporation ("Pima") stands by its bid protest and submits the following additional information for Board of Recreation and Parks Commissioners' consideration.

During the public bid opening, the representative for the Department of Recreation and Parks ("Department") who was conducting the bid opening and review made public statements confirming that the three apparent low bidders did not include Bidder Certification CEC Form 50 in their bids. The bid opening was conducted by a female representative of the Department who thoroughly reviewed each bid. There were about ten bidders present for the bid opening. The Department's representative publicly stated that the three apparent low bidders did NOT include CEC Form 50 in their bid packages. At least two of the persons present asked the Department's representative if the three low bids would be rejected for failure to include CEC Form 50. They were told that the Board of the Department would make that decision.

Attached hereto are the declarations of Gagik Manukian and Alan Safaei¹ which confirm that the Department's representative publicly stated that the three low bidders did not include Bidder Certification CEC Form 50 in their bid packages. Mr. Manukian can be contacted at (818) 388-7861. Mr. Safaei, who is not employed by Pima, can be reached at (310) 420-4533.

Pima is informed that other bidders who were present also heard the statements by the Department's representative. Pima is in the process of investigating this and may submit additional supporting declarations. Pima urges the Department's Board to conduct its own investigation into this serious issue.

¹ Mr. Safaei's declaration is in the process of being signed and the original signed declaration will be forwarded along with the original signature of Mr. Manukian.

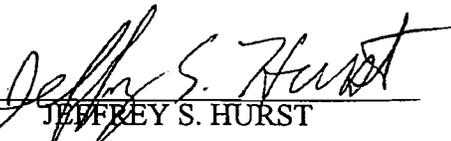
LAW OFFICES
MONTELEONE & McCRORY, LLP

Mary E. Alvarez
June 30, 2011
Page 2

If you have any questions or require additional information feel free to contact me at my office.

Very truly yours,

MONTELEONE & McCRORY, LLP

By 
JEFFREY S. HURST

JSH/al
Encl.

cc: Robert Setareh

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DECLARATION OF GAGIK MANUKIAN

I, Gagik Manukian, declare as follows:

1. The following declaration is based upon my personal knowledge. If called upon to testify I could, and would, competently testify to the following:

2. I am an employee of Pima Corporation and I was present at the bid opening which took place on June 7, 2011 for the project known as Rosecrans Recreation Center - Sports Field Improvements and Stormwater Enhancements (W.O. #E170425F).

3. There were ten (10) bidders present and I have their names and phone numbers if needed. The bids were opened and read aloud by a woman from the Los Angeles Public Works Department of Recreation & Parks. She stated publicly that the three apparent low bidders, L.A. Legacy, Horizon Construction and Landforms Landscape did not provided the CEC Form 50 in their bid packages.

4. Before leaving the room I asked the woman what happens in the case of those bidders who had not provided the CEC Form 50 in their bid package and she replied that it would be determined by the Board.

5. When I proceeded to leave the room, a gentleman from Environmental Engineering came to me and congratulated me. Thinking that since those other second and third bidders did not have the proper documents, then Pima would be the apparent lowest bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this TH30 day of June, 2011, at LOS ANGELES, California.


GAGIK MANUKIAN

