

APPROVED

11-16-2016

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 16-229

DATE November 16, 2016

C.D. ALL

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GENERAL PARK BUILDING CONSTRUCTION SERVICES – AMENDMENT TO THE SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3465 WITH USA SHADE & FABRIC STRUCTURES, INC.

R. Barajas
H. Fujita
V. Israel

K. Regan
\*N. Williams NDW

[Signature]
General Manager

Approved [checkmark]

Disapproved

Withdrawn

RECOMMENDATIONS

- 1. Approve a proposed Amendment to the Supplemental Agreement to Contract No. 3465, herein included as Attachment 1, between the City of Los Angeles Department of Recreation and Parks (RAP) and Shade Structures, Inc. dba USA Shade & Fabric Structures, Inc., for general park building construction services at various park facilities, to reflect changes in the corporate structure of the company, subject to approval of the Mayor in accordance with Executive Directive No. 3, of the City Council, and of the City Attorney as to form;
1. Reaffirm, in accordance with Charter Section 1022, that RAP does not have personnel available in its employ with sufficient time and expertise to undertake these specialized professional tasks, and that it is more feasible, economical and in the Department's best interest to secure these services by contract;
2. Direct the Board Secretary to transmit forthwith the proposed Amendment to the Mayor in accordance with Executive Directive No. 3 and, concurrently to the City Attorney, for review and approval as to form;
3. Authorize the Board President and Secretary to execute the proposed Amendment upon receipt of the necessary approvals; and
4. Authorize the General Manager, or Designee, to make technical corrections as necessary to the contract to carry out the intent of this Report.

SUMMARY:

On April 3, 2013, the Board approved a Request for Qualifications (RFQ) for General Park Building Construction Services at various park facilities (Report No. 13-088). The RFQ was released on

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April 5, 2013. On May 14, 2013, RAP received seven proposals in response to the RFQ, including one from USA Shade & Fabric Structures, Inc.

On June 5, 2013, the Board awarded General Park Building Construction Services contracts to four of the seven contractors, which included USA Shade Structures (Report No. 13-145). Contract No. 3465 between RAP and USA Shade & Fabric Structures, Inc. was executed on August 16, 2013 for a term of three (3) years.

In January 2014, Shade Structures, Inc., a subsidiary of PlayPower, acquired certain assets relating to the modular division of USA Shade & Fabric Structures, Inc. The change of ownership became effective February 2014. Shade Structures, Inc. informed RAP of the change in ownership, stating it would still be doing business as USA Shade & Fabric Structures, because USA Shade & Fabric Structures, Inc. is an established brand (see Exhibit A).

On July 13, 2016, the Board approved the Supplemental Agreement to the contracts with USA Shade & Fabric Structures, Inc. and the other three contractors to extend the contract terms from three (3) years to six (6) years (Report No. 16-158).

On October 6, 2016, Shade Structures, Inc. provided RAP with a signed letter on its USA Shade & Fabric Structures company letterhead indicating of its acquisition and name change to Shade Structures, Inc. dba USA Shade & Fabric Structures and that the current address remains the same at 8505 Chancellor Row Dallas, TX 75247 (see Exhibit B).

The Amendment to the Supplemental Agreement to Contract No. 3465 will address the change in ownership and name change by replacing Section 1 of the Contract ("Parties to Contract, Representatives and Notice") with the new legal entity's contact information. Additionally, because Shades Structures, Inc. continued to provide services to RAP after the change in ownership occurred, RAP is adding a ratification clause to the contract to enable RAP to pay for the services rendered while this Amendment awaits approval and execution. In order to add the ratification clause, the last section of the contract, "Section 7 – Incorporation of Documents," has been renamed "Section 8 – Incorporation of Documents," and Section 7 is now "Section 7 – Ratification."

RAP is seeking authorization for the Board President and Secretary to execute the Supplemental Agreement with this Amendment, subject to the approval of the Mayor and City Council, and of City Attorney as to form. All other terms and conditions of the contract remain unchanged.

### Charter 1022 Determination

On March 29, 2013, the Personnel Department determined that there was insufficient staffing at RAP and in the City to provide as-needed general park building construction services which include:

- 1) general park building construction
- 2) pre-fabricated concrete buildings
- 3) pre-fabricated building
- 4) shade structures

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In Report No. 13-145, which was approved June 5, 2013, the Board found that it was more economical, feasible and in RAP's best interest to secure these services by contract.

### FISCAL IMPACT STATEMENT:

Executing the Amendment will impact RAP's General Fund 302/88, Account 3040, because there are outstanding monies due; the contract is as-needed, and will potentially affect the same account, depending on what work is needed by RAP from this Contractor.

It should be noted that this Contractor is providing services to other City departments. In those cases, the funding comes from the City General Fund because the sites being serviced are not part of RAP.

This report was prepared by Kai Wong, Management Analyst II, Contracts Administration, Finance Division.

### LIST OF ATTACHMENTS/EXHIBITS

- 1) Supplemental Agreement to Contract 3465 – Proposed Amendment
- 2) Exhibit A – signed Play Power Letterhead dated February 20, 2014
- 3) Exhibit B – signed USA Shade & Fabric Structures Letterhead dated October 6, 2016

**AMENDMENT  
TO THE SUPPLEMENTAL AGREEMENT  
TO CONTRACT NO. 3465  
FOR  
GENERAL PARK BUILDING CONSTRUCTION SERVICES  
AT VARIOUS PARK FACILITIES**

THIS AMENDMENT TO THE SUPPLEMENTAL AGREEMENT TO CONTRACT NO. 3465 (AMENDMENT) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, hereinafter referred to as "CITY", and SHADE STRUCTURES, INC. dba USA SHADE & FABRIC STRUCTURES, a corporation, hereinafter referred to as "CONTRACTOR".

WITNESSETH

WHEREAS, on August 16, 2013, CITY and USA Shade & Fabric Structures, Inc., entered into CONTRACT NO. 3465 ("CONTRACT") for General Park Building Construction Services at various Department of Recreation and Parks ("DEPARTMENT") facilities; and,

WHEREAS, CONTRACT expired on August 15, 2016 and a Supplemental Agreement was approved to extend it until August 15, 2019; and,

WHEREAS, USA Shade & Fabric Structures, Inc. was purchased by CONTRACTOR, with an effective date of change of ownership of January 30, 2014; and,

WHEREAS, CONTRACTOR continues to do business as Shade Structures, Inc. dba USA Shade & Fabric Structures; and,

WHEREAS, the principal purpose of CITY entering into this AMENDMENT is to reflect the new corporate structure at Shade Structures, Inc. dba USA Shade & Fabric Structures and continue to utilize the expertise and services of CONTRACTOR in ongoing and future DEPARTMENT projects; and,

WHEREAS, CONTRACTOR has retained the infrastructure and the services of all employees at USA Shade & Fabric Structures, Inc.

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED that the CONTRACT be amended as follows:

1. SECTION 1. PARTIES TO CONTRACT, REPRESENTATIVES, AND NOTICE

Delete the Section in its entirety and replace with:

"SECTION 1 – PARTIES TO CONTRACT, REPRESENTATIVES, AND NOTICE

1.1 Parties

The parties to this Contract are:

CITY – The City of Los Angeles, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS on behalf of the Department of Recreation and Parks, having its principal office at 221 North Figueroa Street, 3<sup>rd</sup> Floor, Los Angeles, California 90012.

CONTRACTOR – Shade Structures, Inc., dba USA Shade & Fabric Structures, having its principal office located at 8505 Chancellor Row Dallas, TX 75247.

## 1.2 Representatives

The representatives of the parties who are authorized to administer this Contract and to whom formal notices, demands and communications will be given for as follows:

CITY's representative will be:

Michael A. Shull, General Manager  
Department of Recreation and Parks  
221 North Figueroa Street, Suite 350  
Los Angeles, California 90012

With copies to:

Cathie Santo Domingo, Superintendent  
Planning, Construction, and Maintenance Branch  
221 North Figueroa Street, Suite 400  
Los Angeles, California 90012

Telephone Number: (213) 202-2668

Fax Number: (213) 202-2612

CONTRACTOR'S representative will be:

Elizabeth Norton  
Shade Structures, Inc. dba USA Shade & Fabric Structures  
1085 N. Main Street, Suite C  
Orange, CA 92867

Telephone Number: (323) 490-9502

Fax Number: (714) 538-2440

Email: enorton@usa-shade.com

Virgina I. Marquez  
Shade Structures, Inc. dba USA Shade & Fabric Structures  
8505 Chancellor Row  
Dallas, TX 75247

Telephone Number: (214) 260-4539

Fax Number: (714) 905-9514

Email: vmarques@usa-shade.com

1.3 Notices

Formal notices, demands and communications to be given hereunder by either party will be made in writing and may be effected by personal delivery or certified mail, return receipt requested, and will be deemed communicated as of the date of receipt.

If the person designated to receive the notices, demands or communications or if the address of such person is changed, written notice of such change shall be given, in accordance with this Section, within five (5) working days of the change.”

2. SECTION 7. INCORPORATION OF DOCUMENTS

Delete “Section 7 – INCORPORATION OF DOCUMENTS” in its entirety and replace with the following:

“SECTION 7 – RATIFICATION

At the request of the CITY, and because of the urgent need therefore, CONTRACTOR began performance of services required hereunder prior to the execution of this Agreement. By its execution hereof, CITY hereby accepts such services from CONTRACTOR subject to all of the terms, covenants and conditions of this Agreement, and CONTRACTOR’s performance as such services.”

3. SECTION 8. INCORPORATION OF DOCUMENTS

Add the following section:

“SECTION 8 – INCORPORATION OF DOCUMENTS

This contract and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following documents are incorporated and made a part hereof by reference:

Appendix A. Standard Provisions for City Contracts (Rev. 3/09).”

All other terms and conditions of the CONTRACT shall remain unchanged.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to the Supplemental Agreement to Contract No. 3465 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

SHADE STRUCTURES, INC. dba USA SHADE & FABRIC STRUCTURES, a Corporation

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_  
Strefan E. Fauble  
Deputy City Attorney III

DATE: \_\_\_\_\_

EXHIBIT A



PlayPower, Inc.  
11515 Vanstory Drive, Suite 100  
Huntersville, NC 28078  
704-949-1603

February 20, 2014

Re: Shade Structures, Inc.  
Acquisition of USA Shade & Fabric Structures

To Whom It May Concern:

Please be advised that on January 30, 2014, Shade Structures, Inc., a 100% owned subsidiary of PlayPower, Inc. acquired certain assets relating to the modular division of USA Shade and Fabric Structures, Inc. Shade Structures will continue to do business as USA Shade and Fabric Structures. The prior entity, USA Shade and Fabric Structures, Inc. will change its name to FabriTec Structures, LLC.

Shade Structures, Inc. acquired all the people, operations and other assets necessary to ensure that customers will continue to receive the same great service and high quality products that USA Shade has delivered in the past. Headquartered in Charlotte, NC, PlayPower is a leading global provider of play, sport and recreation facilities and equipment with over 1100 employees and manufacturing facilities in USA, Sweden and the United Kingdom.

Please do not hesitate to call me at (704) 949-1603 if you have any further questions or need additional information.

Thank you for your support and understanding during this transition.

Best regards,

Shade Structures, Inc.

A handwritten signature in blue ink, appearing to read "Michael A. Pruss".

Michael A. Pruss  
Executive Vice President,  
Chief Financial Officer and Secretary  
Phone: (704) 949-1603  
Fax: (704) 948-3447  
Email: [mike.pruss@playpower.com](mailto:mike.pruss@playpower.com)



Miracle

HAGS





**USASHADE**  
& Fabric Structures

EXHIBIT B

Corporate Headquarters  
8505 Chancellor Row Dallas, TX 75247  
P. 214.905.9500 F. 214.905.9514 TF. 800.966.5005

10/6/16

Jim Newsom  
Department of Recreation and Parks  
Contracts, Finance Division  
221 North Figueroa Street, Suite 200  
Los Angeles, CA 90012

This letter is to inform you of our acquisition on January 30, 2014. Our previous company name was USA Shade & Fabric Structures, Inc. at 8505 Chancellor Row Dallas, TX 78247. Our new company name is now Shade Structures, Inc. DBA USA Shade & Fabric Structures and current address remains the same at 8505 Chancellor Row Dallas, TX 75247. All future payments should be mailed to that address. The letter attached is proof of when the acquisition became effective. If you have any questions please feel free to contact Virginia Marquez at [vmarquez@usa-shade.com](mailto:vmarquez@usa-shade.com).

Sincerely,  
Shade Structures, Inc.

John Saunders, President

