

REPORT OF GENERAL MANAGER

NO. 04-199

DATE June 9, 2004

C.D. 12

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PEDLOW SKATE PARK – PHASE II (W.O. #E170400F) – REVIEW OF BIDS AND AWARD OF CONTRACT

* K. Chan	<u>kc</u>	J. Combs	_____
H. Fujita	_____	J. Kolb	_____
M. Mariscal	_____	F. Mok	_____
K. Regan	_____	G. Stigile	_____



 General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

That the Board:

1. Accept the base bid and Deductive Alternate No. 3 along with Additive Alternate No. 1 of Atek Engineering & Construction, Inc., in the amount of \$1,020,000 as the lowest responsible bidder;
2. Authorize the Department's Chief Accounting Employee to encumber funds in the amount of \$758,650.71 from the available funds in the following funds and account numbers under the awarding authority of this Board Report; and,

FUND	ACCOUNT NO.	AMOUNT
43K (Prop. K-YR6)	T248	\$ 61,554.71
43K (Prop. K-YR7)	V248	\$ 379,059.00
43M (Prop. K-YR7)	V248	\$ 40,000.00
43L (Prop. K-YR7)	V248	\$ 278,037.00
45W (Prop 12 Per Capita)	V431	\$ 52,400.00
<u>Available Funds</u>		<u>\$ 811,050.71</u>

3. Request the City Attorney 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, as well as so limiting the contractor's obligation to perform the contract, as further described in this report, after which the Board President and Secretary be authorized to execute same after the appropriate signatures by the other parties thereto and approval of form by the City Attorney have been obtained thereon.

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SUMMARY:

On April 7, 2004, the Board approved final plans and call for bids for the Pedlow Skate Park – Phase II, W.O. E170400F, located at 17334 Victory Boulevard, Reseda, CA 91406 (Board Report No. 03-377). The plans provide for construction of a new 1,135 square foot office concession/restroom building which includes a check-in lobby, the Park Director's Office, a skate equipment storage/rental area, a maintenance room, an electrical room, and restroom facilities. In addition to the new building, the following improvements are included for the skate park facilities: extension of a half-pipe, new concrete bowl, snake run, grinding steps, new beginner's area, and extension of concrete flat work along the top of existing skate park elements.

On May 25, 2004, the following bids were received:

<u>Designer</u>	<u>Estimate</u>
David Evans and Associates	\$ 789,720.00

<u>Bidder #1- Atek Engineering & Construction, Inc.</u>	<u>Bid Amount</u>
Base Bid	\$ 970,000.00
Additive Alternate No. 1	\$ 130,000.00
Additive Alternate No. 2	\$ 310,000.00
Additive Alternate No. 3	\$ 80,000.00
Additive Alternate No. 4	\$ 15,000.00
Deduct Alternate No. 1	\$ 55,000.00
Deduct Alternate No. 2	\$ 50,000.00
Deduct Alternate No. 3	\$ 80,000.00

<u>Bidder #2- Trimax Construction Corp.</u>	<u>Bid Amount</u>
Base Bid	\$1,230,000.00
Additive Alternate No. 1	\$ 140,000.00
Additive Alternate No. 2	\$ 218,000.00
Additive Alternate No. 3	\$ 65,000.00
Additive Alternate No. 4	\$ 14,000.00
Deduct Alternate No. 1	\$ 40,000.00
Deduct Alternate No. 2	\$ 10,000.00
Deduct Alternate No. 3	\$ 72,000.00

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<u>Bidder #3- Mallcraft, Inc.</u>	<u>Bid Amount</u>
Base Bid	\$1,534,000.00
Additive Alternate No. 1	\$ 83,000.00
Additive Alternate No. 2	\$ 190,000.00
Additive Alternate No. 3	\$ 51,000.00
Additive Alternate No. 4	\$ 9,000.00
Deduct Alternate No. 1	\$ 60,000.00
Deduct Alternate No. 2	\$ 42,000.00
Deduct Alternate No. 3	\$ 72,000.00

Atek Engineering & Construction, Inc., submitted the lowest base bid as shown above. Three deductive alternates and four additive alternates were also included in the bid packages. As it is anticipated there will be sufficient funds to award the Base Bid less with Deductive Alternate No. 3 (deletion of furnishing and installing of the modular (above ground) skate equipment located at New Beginner's Area at south end) and adding Additive Alternate No. 1 (construction of all utilities for the new building to include furnishing and installing domestic water lines, water taps, sewer lines, clean outs, building electrical, sewer, utility pole, fire hydrant and water service line) and to allow for contingencies during the construction of the project, it is recommended that the project be awarded with only Deductive Alternate No. 3 and Additive Alternate No. 1 being exercised. The project was presented to the Prop K Steering Committee on May 27, 2004, and it was recommended that the Board award the Base Bid and Deductive Alternate No. 3 and Additive Alternate No. 1 at \$1,020,000.00 at this time.

The Proposition K program has awarded \$1 million towards the construction of the skateboard park. Currently, there is \$758,650.71 available in Prop K funds for construction. The City Council and Mayor authorized \$524,000 from the Proposition 12 Per Capita program for the project. The Community Development Department has received \$52,400 of the \$524,000 for a total of \$811,050.71 available for award at this time (see the table below). The State will release an additional 70% of the \$524,000 (\$366,800) upon award of the contract. The remaining 20% (\$104,800) will be released by the State upon completion and acceptance of the project by the Board of Commissioners. The Steering Committee was also appraised of the fact that the Prop K Program Manager was recommending the award of the contract with a 10% construction Contingency fund, which is approximately half of the usual amount. 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. With the receipt \$366,800.00 in Prop 12 funds, 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 current funding, plus any additional funding appropriated by the City, if any, for this project.

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There are funds currently available to award the contract for this project in the following accounts:

FUND	ACCOUNT NO.	AMOUNT
43K (Prop. K-YR6)	T248	\$ 61,554.71
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43M (Prop. K-YR7)	V248	\$ 40,000.00
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Available Funds		\$ 811,050.71

However, additional funding is planned for this project to be received from the State, contingent upon the City submitting proper request for reimbursement. When funds are received as requested, the Department's Chief Accounting Employee will be able to encumber the contract balance. The contractor will be notified of the amount of the appropriation being made to the contract from the additional funding and to continue working until project completion or until the appropriated funding for the project is expended which ever comes first.

The Department, through a letter dated May 28, 2004, received a bid protest from Trimax Construction Corporation, the second low bidder. Department staff consulted with the City Attorney regarding this protest and have the following responses to the three issues brought forward. The first issue is that Atek Engineering and Construction, Inc. must perform at least 50% of the work. Staff has determined that the base bid amount is \$970,000.00 and, of this amount, \$624,142.00 or 64.3% is being done by ATEK Engineering. Therefore, the contractor is performing more than 50% of the work. The second issue is that contractor did not submit Good Faith Effort Outreach Documentation with the bid. The Documentation has been submitted and staff has determined that the documentation is in order. Further, the Good Faith Effort Outreach Effort was performed prior to the deadline for submitting a bid. The City Attorney has determined that failure to submit documentation with the bid is an immaterial discrepancy. The third issue is that the contractor listed a "sister company" as a subcontractor. Atek Engineering and Construction, Inc. listed Atek Construction, a sister company, as the electrical subcontractor. Ali Taha is an officer and shareholder of both companies. The City Attorney has indicated that there are no laws that apply to this project that would prohibit a general contractor from subcontracting to a "sister company".

Staff has reviewed the outreach effort made by Atek Engineering & Construction, Inc., and, based on the documents submitted, has determined that a "good faith" effort has been made. The contractor obtained a MBE/WBE participation of 6.2% and satisfied 80 of the 100-point requirements outlined by the Board's outreach program. The outreach Document Package is on file in the Board Office and a synopsis of said package is attached.

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The City Attorney and staff have reviewed the bids submitted by Atek Engineering & Construction, Inc., and found them to be in order. Atek Engineering & Construction, Inc. is the lowest responsible bidder.

Staff reviewed the responsiveness and work performance of Atek Engineering & Construction, Inc., and found that they have not been awarded any past projects. 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.

This report was prepared by Kathleen Chan, Acting Superintendent and Alice Gong, Proposition K Group, Bureau of Engineering.

GUIDELINES FOR EVALUATION OF GOOD FAITH EFFORT CHECKLIST

Bidder: Atek Engineering & Construction, Inc.

Bid Date: May 25, 2004

Project Name: PEDLOW SKATE PARK - PHASE II - W.O. #E170400F

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) 617-0439, or by mail to the Recreation and Parks Dept., Planning and Development Branch, 200 N. Main Street, Room 709, Los Angeles, California 90012.		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	0
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:			6.2%	