

APPROVED
JAN 09 2018

BOARD REPORT **BOARD OF RECREATION AND PARK COMMISSIONERS** NO. 18-006
DATE January 9, 2018 C.D. 8

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ALGIN SUTTON RECREATION CENTER – POOL REPLACEMENT AND BATHHOUSE RENOVATION (PRJ21117) (W.O. #E170293F) PROJECT – REVIEW OF BIDS AND AWARD OF CONTRACT

AP Diaz _____ V. Israel _____
for *R. Barajas CSD _____ S. Piña-Cortez _____
H. Fujita _____ N. Williams _____



General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Sustain the formal bid protest (Attachment No. 1) received on the Algin Sutton Recreation Center – Pool and Bathhouse Replacement (PRJ21117) (W.O. #E170293F) Project (Project) dated October 11, 2017 filed by USS Cal Builders, Inc. (USS Cal Builders), against the bid submitted by Green Building Corporation (Green Building) for the reasons stated in the Summary of this Report;
2. Find the bid submitted by Green Building to be non-responsive for failing to submit a complete Schedule "A" by the bid deadline and for failing to meet the requirements of the City's Business Inclusion Program (BIP) for the reasons stated in the Summary of this Report;
3. Find USS Cal Builders, with a base bid of Six Million, Three Hundred Eighty-Eight Thousand Dollars (\$6,388,000.00), to be the lowest responsive and responsible bidder for the Project;
4. Award the construction contract to USS Cal Builders in the amount of Six Million, Three Hundred Eighty-Eight Thousand Dollars (\$6,388,000.00), all according to the plans and specifications;
5. Authorize the Department's Chief Accounting Employee to transfer Six Hundred Fifty Thousand Dollars (\$650,000.00) from Fund 205, Department 88, Account 88160D to Fund 205, Department 88, Account 88NMAN;
6. Approve the allocation of Six Hundred Fifty Thousand Dollars (\$650,000.00) from Fund 205, Department 88, Account 88NMAN for the Algin Sutton Pool Project (PRJ21117) (W.O. #E170293F) Project, as described in the Summary of this Report;

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SUMMARY

On September 6, 2017, the Board of Recreation and Parks Commissioners (Board) approved final plans and call for bids for the Algin Sutton Recreation Center – Pool and Bathhouse Renovation Project (PRJ21117) (W.O. #E170293F) (Project), located at 8800 South Hoover Street, Los Angeles, California 90044. The plans and specifications were prepared by Lehrer Architects under the direction of the Department of Public Works, Bureau of Engineering (BOE), Architectural Division.

The proposed scope of work for the project base bid includes the following:

1. Construction of a new 75 feet by 120 feet swimming pool and surrounding pool deck
2. Renovation of the existing bathhouse, with additional plumbing fixtures to meet current code requirements
3. Construct new pool equipment building
4. Construction of a new splash pad
5. Construction of a new pump room and bathroom building for the splash pad
6. Construction of new 10-foot high perimeter fence
7. Replacement of existing landscaping, and installation of new landscaping and irrigation
8. Construction of parking lot extension for additional nine parking stalls and bike racks
9. Replacement of site utility connections serving the building and the pool
10. Installation of security light poles throughout the site and LED underwater pool lights

The City Engineer's estimate of the Project's construction cost was Five Million Seven Hundred Thousand Dollars (\$5,700,000.00) for the Base Bid.

Due to the saturated construction market and the subsequent effects on public bidding, four (4) Additive Alternates were included in the bid package. The Additive Alternates were intended to provide RAP the flexibility to add certain scopes of work to the project within the available funding and allow a successful award of the construction project.

The four (4) Additive Alternates are as follows:

Additive Alternate No.1 – A lump sum price to be added to the Base Bid, at the discretion of the Board at the time of award, for the addition of a new large shade canopy.

Additive Alternate No.2 – A lump sum price to be added to the Base Bid, at the discretion of the Board at the time of award, for the addition of a new shade canopy behind new splash pad building.

Additive Alternate No.3 – A lump sum price to be added to the Base Bid, at the discretion of the Board at the time of award, for the construction of 10-foot high tubular specialty design fence, in lieu of the standard tubular steel fence.

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Additive Alternate No.4 – A lump sum price to be added to the Base Bid, at the discretion of the Board at the time of award, to compress the total contract period from 450 calendar days to 240 calendar days.

On October 10, 2017, the Board received a total of three (3) bids for the Project as follows:

<u>Bidders</u>	<u>Base Bid</u>	<u>Add. Alt. 1</u>	<u>Add. Alt. 2</u>	<u>Add. Alt. 3</u>	<u>Add. Alt. 4</u>
Green Building	\$5,885,000	\$180,000	\$ 90,000	\$670,000	\$ 400,000
USS Cal Builders	\$6,388,000	\$990,000	\$320,000	\$580,000	\$2,300,000
Royal Construction Corp.	\$6,990,000	\$465,000	\$135,000	\$200,000	\$2,400,000

On October 11, 2017, USS Cal Builders filed a formal bid protest (Attachment No. 1), protesting the bid submitted by Green Building. The protest states that Green Building “failed to conform to the bid requirements by not providing the required documents within the submitted sealed package at bid time.”

City Staff reviewed the bid protest and found that the following occurred: On October 10, 2017, at the bid opening, it was announced that Green Building’s bid was missing a completed Schedule “A,” the subcontractor and supplier information. A few minutes later, after the 3:00 pm deadline for receipt of bids, and after all bids were opened, Green Building stated that the Schedule “A”, submitted with its bid, was the incorrect one, and proceeded to give the Board Executive Assistant a different Schedule “A”.

It is explicitly stated on the Schedule “A” form in bold text at the bottom of the page that it “MUST SUBMITTED WITH THE BID.” Green Building failed to submit a complete Schedule “A” by the deadline for receipt of bids. The Schedule “A” from Green Building that was submitted to the Board Executive Assistant after the deadline should not have been accepted. Schedule “A” provides information about the subcontractors and suppliers for the Project, as is required by Los Angeles City Administrative Code Section 10.14. The information provided in Schedule “A” allows staff to further evaluate the contents of the bid, including whether the prime contractor has met the requirement to self-perform 20% of the base bid work. Staff has determined that the bid protest has sufficient merit and recommends that the Board sustain the bid protest.

The Project is also subject to the City's Business Inclusion Program (BIP), in compliance with the Mayor's Directive No. 14, which replaced the former Minority Business Enterprise, Women Business Enterprise, and Other Business Enterprise (MBE/WBE/OBE) Good Faith Effort Subcontractor Outreach Program. BIP evaluation results for Green Building deemed Green Building to be non-responsive for failure to meet all the required BIP outreach requirements (Attachment No. 2, BIP Evaluation Result for Green Building).

Therefore, staff recommends that the Board find the bid submitted by Green Building to be non-responsive for failing to submit a complete Schedule “A” by the bid deadline and for failing to meet the BIP requirements.

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The bid specification states that the low bidder would be determined to be the responsible and responsive bidder submitting the lowest base bid. USS Cal Builders submitted the lowest base bid in the amount of Six Million, Three Hundred Eighty-Eight Thousand Dollars (\$6,388,000.00), which is Six Hundred Eighty-Eight Thousand Dollars (\$688,000.00) or twelve percent (12%) higher than the City Engineer's construction cost estimate of Five Million, Seven Hundred Thousand Dollars (\$5,700,000.00). The cause of the higher bid prices continues to be attributed to an improving construction economy.

USS Cal Builders has successfully posted all the required BIP outreach documentation on the Los Angeles Business Virtual Assistance Network (LABAVN) that demonstrated satisfactory effort in its outreach to Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and Other Business Enterprise (OBE) for sub-bid or subcontracting businesses. Since this project has CDBG funding, it is subject to federal regulations and requirements, including compliance with the Davis-Bacon Wage Act. Staff has reviewed all certifications and documentation submitted by USS Cal Builders and determined that USS Cal Builders' bid complies with the CDBG bid requirements.

City Staff has evaluated the outreach documentation submitted by USS Cal Builders and determined that they have passed all six indicators as required for the effort to obtain sub-bid/subcontracting participation by MBE, WBE, SBE, EBE, DVBE and OBE businesses, and is in compliance with the BIP outreach requirements. The outreach documentation package is on file in the Board Office, and a synopsis of the said package is attached to this Report (Attachment No. 3, BIP Evaluation Result for USS Cal Builders).

City Staff has also verified that USS Cal Builders meets the Prime Contractor's Minimum Qualifications -- Experience with Public Recreation Facilities Construction and that its pool contractor meets the Pool Contractor's Minimum Qualifications - Experience with Public Swimming Pool Construction. The Department of Public Works, Office of Contract Compliance (OCC) indicates that there have been no labor compliance violations and that all other legal requirements have been complied with by the bidder.

The City Attorney and staff have reviewed the bid submitted by USS Cal Builders, and found it to be in order. City Staff recommends that the Board find USS Cal Builders to be the lowest responsive and responsible bidder and to award the Project to USS Cal Builders for a total construction contract amount of Six Million, Three Hundred Eighty-Eight Thousand Dollars (\$6,388,000.00), with the funding clause discussed further in this report.

Funds are not available at this time to exercise Additive Alternate No. 1 for the addition of a large shade canopy. However, the large shade canopy is critical in the facility's design as presented to the community and to provide the much needed shade for the pool patrons. USS Cal Builders has agreed to hold the Additive Alternate No. 1 bid amount of Nine Hundred Ninety Thousand Dollars (\$990,000.00) for a period of sixty (60) days after award of the contract. Council District 8 (CD 8) and RAP are working with the City Administrative Officer (CAO) to identify and allocate additional funds for this item. Once the additional funds have been allocated, staff will return to the Board for authorization to issue a change order to include

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Additive Alternate No. 1.

Additive Alternate No. 4 was also included in the Project bid for an accelerated construction schedule. However, funds are not available at this time to exercise Additive Alternate No. 4. At the request of CD 8, the BOE will enter into negotiation with USS Cal Builders to accelerate the construction schedule. Negotiation will focus on determining the cost for the USS Cal Builders to work overtime and weekends in order to complete the project as early as possible. Once an accurate cost to accelerate the construction schedule has been determined, and assuming that funds to cover that cost are secured, staff will return to the Board to seek approval as necessary to increase the contract amount to cover the additional cost of accelerating the construction schedule.

The funds available to award the contract for this Project are in the following accounts:

APPROVED FUNDING

<u>FUNDING SOURCE</u>	<u>FUND/DEPT./ACCT. NO.</u>	<u>AVAILABLE AMOUNT</u>
RAP Capital Improvement Funds	205/88/88NMAN	\$ 1,812,760.00
Sites & Facilities FY 2014-15	209/88/88M214	\$ 863,240.00
Prop K – Specified FY 2015-16	43K/10/10MPGB	\$ 662,000.00
Prop K – Specified FY 2016-17	43K/10/10NPJA	\$ 100,000.00
CDBG – 43 rd Program Year (PR)	424/43/43N595	<u>\$ 750,000.00</u>
Approved Funding Total		\$ 4,188,000.00

PENDING FUNDING

<u>FUNDING SOURCE</u>	<u>FUND/DEPT./ACCT. NO.</u>	<u>PENDING AMOUNT</u>
Prop K GAP ⁽¹⁾	TBD	\$ 1,200,000.00
CDBG Reprogrammed Funds ⁽¹⁾	TBD	<u>\$ 1,000,000.00</u>
Pending Funding Total		\$ 2,200,000.00

TOTAL FUNDING \$ 6,388,000.00

Notes:

⁽¹⁾ Availability of funding is subject to City Council approval of the Proposition K GAP Funds for Fiscal Year 2018-19 and the CDBG Reprogrammed Funds.

The contract will include a funding clause that will provide that the City's liability for the contract payments under this contract shall be limited to the City's current appropriation to fund the contract. Upon approval of the Proposition K GAP funds and the CDBG Reprogrammed funds, RAP's Chief Accounting Employee will appropriate the funds for full contract encumbrance under the authority of this Board Report. The contractor will not be required to perform any work in excess of the amount of the current funding, plus additional funding appropriated by the City, if any, for the project.

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Upon approval by the City Council of the Prop K GAP funds and the CDBG Reprogrammed funds, the contractor will be notified of the amount of the additional appropriations being made to the contract and the contractor shall then be required to complete all contract work up to the amount of appropriation to the contract.

TREES AND SHADE

Additive Alternate No. 1 is the addition of a large shade canopy. There are insufficient funds allocated for the project to exercise the award of this item at this time. CD 8 and RAP are working with the CAO to identify and allocate these funds to the project in order to incorporate the shade canopy in to the Project.

ENVIRONMENTAL IMPACT STATEMENT

Pursuant to Board action on May 17, 2017 (Report No. 17-127 regarding approval of demolition work), the proposed project has been determined to be Categorically Exempt pursuant to Article III, Section 1 Class 1 Categories 11 (d) and 12, Class 3 Categories 6 and 8, Class 4 and Class 11 Categories 3 and 6 (addition of minor accessory structures) of the City of Los Angeles CEQA Guidelines. Furthermore, the Board authorized (Report No. 17-127) the filing of the Notice of Exemption (NOE) with the Los Angeles County Clerk. The proposed Project has been evaluated and approved in compliance with CEQA. The NOE was filed with the Los Angeles County Clerk on August 25, 2017 (Attachment No. 5). The scope of the project and the environment conditions have not substantially changed since the May 17, 2017 Board action and the NOE that was filed is still valid for the Board's current action. No additional CEQA documentation is required

FISCAL IMPACT STATEMENT

The project will be funded by a combination of the aforementioned funding sources. There is no immediate fiscal impact to RAP's General Fund. It is anticipated that future operations and maintenance costs of the facility should be reduced relative to the existing pool and bathhouse, as it will be a modern and energy-efficient facility, designed in accordance with the needs and recommendations of RAP, including input from Aquatics and Maintenance staff.

This Report was prepared by Alex Ngo, Project Manager, BOE Architectural Division. Reviewed by Neil Drucker, Proposition K Program Manager and Mahmood Karimzadeh, Principal Architect, BOE Architectural Division; Deborah Weintraub, BOE, Chief Deputy City Engineer; and Cathie Santo Domingo, Superintendent, Planning, Maintenance and Construction Branch.

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LIST OF ATTACHMENTS

1. Bid Protest letter from USS Cal Builders, dated October 11, 2017
2. BIP Evaluation Result for Green Building, October 10, 2017
3. BIP Evaluation Result for USS Cal Builders, October 10, 2017
4. Report No. 17-127, May 17, 2017
5. Notice of Exemption, filed on August 25, 2017
6. Report No. 17-193, September 6, 2017