



CITY COUNCIL AGENDA REPORT

MEETING DATE: September 20, 2004

ITEM NUMBER:

SUBJECT: TEWINKLE PARK SKATE PARK - CITY PROJECT NO. 04-19

DATE: SEPTEMBER 14, 2004

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: WILLIAM J. MORRIS, DIRECTOR OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: ERNESTO MUNOZ, CITY ENGINEER, (714) 754-5343

RECOMMENDATION:

1. Accept the withdrawal of the bid proposal submitted by Channel Islands Paving, Inc.; and
2. Authorize staff to negotiate a contract with a qualified contractor within the existing budgeted amount; and authorize the City Manager and the Deputy City Clerk to execute the Public Works Agreement for this project.

BACKGROUND:

The Skate Park project was advertised on July 26, 2004 with the City Clerk's office, local newspaper, and trade publications. A total of nine bid packages were sold to contractors and material suppliers.

The City received only one bid for this project on August 18, 2004, and as discussed below, that bid is being withdrawn. The only bid was submitted by Channel Islands Paving, Inc., which was awarded a contract by the City Council on September 7, 2004, in the amount of \$936,200. The contract award was subject to the approval of the insurance and bonds. The contract was not executed by the contractor due to its failure to submit the necessary bonds and insurance.

ANALYSIS:

Staff issued a Notice of Intent to Award to Channel Islands Paving on August 23, 2004, which required submittal of insurance certificates and bonds within fourteen calendar days after notification. In an effort to maintain the schedule for this and other TeWinkle Park projects, staff presented the award of this project to the City Council meeting of September 7, 2004, which was the same date for the deadline for the submittal of the compliance documents. This action was taken in conformance with the provisions of the contract documents and to ensure that construction would begin immediately. It is very important that this project be coordinated with the other TeWinkle Park projects that are to be under construction simultaneously.

On September 9, 2004, Channel Islands Paving had not submitted the required documents. On September 10, 2004, Channel Islands Paving was notified in writing that they were in default of the bid documents, and at the next regular Council meeting on September 20, 2004, a staff's recommendation would be made to rescind the award of the contract.

Upon further investigation, staff learned that the bid bond submitted by Channel Islands Paving contained significant irregularities that render the proposal to be non-responsive. Under these circumstances, the bid would originally not have been accepted. The disclosure of this information occurred after the City investigated the delay of the bonding for the project. The bonding agency was contacted after September 9, 2004 and the City was informed at that time. Upon discovery of this information, the contractor agreed to withdraw its bid. As a result, the City now has no bids for this project.

To take action on the forfeiture of the bid bond after the disclosure of the irregularities of the bid bond itself would entail substantial legal costs. Staff anticipates that the pursuit of the forfeiture of the contractor's bid bond would entail litigation that would afford the City little if any benefit toward the funding of this project.

Pursuant to California Public Contract Code Section 20166, when the City Council receives no bids, the legislative body may have the project done without further complying with the formal bid procedures. In an effort to continue with the project, the City Council can authorize staff to negotiate a contract with a qualified contractor. If authorized, a contract will be negotiated with a qualified contractor to be executed by the City Manager and the Deputy City Clerk.

ALTERNATIVES CONSIDERED:

One alternative is to rescind the award to Channel Islands Paving and re-advertise the project. However, this alternative would delay the construction of the project three to four months. Staff does not recommend this alternative, as the delay will cause disruption in the construction schedule at TeWinkle Park. Delays will also increase the possibility of the City receiving bids with increased construction costs due to price escalations predominantly in the construction of public facilities.

FISCAL REVIEW:

Funding in the amount of \$1,197,952 has previously been allocated to this project from Capital Outlay and Park Development funds.

The purchase requisition for this expenditure will be approved by the Finance Department following the execution of a negotiated contract.

LEGAL REVIEW:

The City Attorney's office reviewed these actions and found them to be in compliance with California Public Contract Code Sections 20166, which allows the City Council to direct the work to be performed without further complying with the formal bid procedures when no bids are received. Upon approval of this recommendation by City Council, staff will begin negotiations with qualified contractors.

CONCLUSION:

Since the only bidder for the Skate Park project has submitted a request to have their bid withdrawn, staff recommends that the City Council accept the withdrawal of the bid submitted by Channel Islands Paving, Inc., which includes release of the bid bond, and authorize the negotiation of a contract with a qualified contractor (within the existing budgeted amount) as provided for in Section 20166 of the Public Contracts Code; and authorize the City Manager and the Deputy City Clerk to execute the Public Works Agreement for this project.

City Engineer

Director of Public Services

MARC R. PUCKETT
Director of Finance

TOM WOOD
Acting City Attorney

DISTRIBUTION: City Manager
 Acting City Attorney
 Deputy City Clerk
 Staff
 File

ATTACHMENTS: "1" [Letter Dated September 16, 2004](#)

File Name Reject Skate Park Date 09-14-04
Bid Report

Time 4:30 p.m.