




Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jon Cicirelli
Jim Shannon

SUBJECT: SEE BELOW

DATE: February 22, 2022

Approved		Date	2/24/2022
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COUNCIL DISTRICT: 5

**SUBJECT: ACTIONS RELATED TO THE 9217 – PARK: ALL INCLUSIVE
PLAYGROUND – EMMA PRUSCH – RE-BID PROJECT**

RECOMMENDATION

- (a) Report on bids received as part of the “best value” procurement and award of construction contract for the 9217- Park: All Inclusive Playground – Emma Prusch – Re-Bid Project to the best value bidder, Robert A Bothman, Inc. dba Robert A Bothman Construction, for the base bid in the amount of \$3,209,500 and approve a ten percent contingency in the amount of \$320,950.

- (b) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Establish the All-Inclusive Playground - Emma Prusch appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$300,000; and
 - (2) Decrease the Future Parkland Dedication Ordinance/Parkland Impact Ordinance Projects Reserve by \$300,000.

- (c) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5:
 - (1) Increase the All-Inclusive Playground - Emma Prusch appropriation to the Parks, Recreation, and Neighborhood Services Department by \$466,000; and
 - (2) Decrease the Unrestricted Ending Fund Balance by \$466,000.

OUTCOME

Approval of this construction contract will enable the 9217- Park: All Inclusive Playground – Emma Prusch – Re-Bid (“Project”) to proceed. This project involves the construction of an all-inclusive playground and adjacent restroom. Approval of a ten (10) percent contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the project.

BACKGROUND

Emma Prusch Farm Park is an existing park located at 647 S King Road, San Jose. The 2.67-acre proposed playground area will meet the definition of an all-inclusive playground which will include elements that address the needs of those with wheelchairs, autism spectrum disorder, sensory challenges, visual and auditory impairments, cognitive, developmental, and physical disabilities. This project is partially funded by an All-Inclusive Playground Grant from the county with a deadline of April 30, 2023. The base bid scope of work includes custom farm-themed play structures, playground surfacing, seating, shade elements, musical instruments, sensory plants, and associated irrigation. Additionally, a new pre-fabricated restroom with a janitor’s closet will be added adjacent to the playground. One bid alternate, entry arbor, is included in the project.

On November 6, 2018, San Jose voters approved ballot Measure S, which amended Section 1217 of the City Charter to modernize the construction contract procurement process. Among other changes, Measure S authorized the use of the Best Value procurement process, an alternative method of determining the low bidder using a formula based on the bid amount and a qualifications score.

Under the Best Value procurement process, bidders are required to submit a Best Value submittal packages which includes 1) a Qualifications Submittal Questionnaire and 2) a bid proposal. Pursuant to the City Charter and the San José Municipal Code, the Qualifications Submittal Questionnaire contains information regarding a bidder’s safety record, past performance, labor compliance, demonstrated management competence, financial condition and relevant experience. They are opened at the submittal deadline and evaluated by a panel of technical experts. The bid proposal remains sealed until after the Qualifications Submittal Questionnaires have been scored. Based on a formula that uses the score of the Qualifications Submittal Questionnaires (the “Qualification Score”) and bid price, the City determines the Best Value bid.

The project was selected as the City's first Best Value procurement for several reasons. First, all-inclusive playground projects include unique elements and benefit from contractors and key personnel with experience performing similar work. They involve complex site preparation (i.e., grading) and procurement of long-lead items (i.e., playground equipment) that, when using contractors with lower quality management capabilities, can lead to cost and schedule overruns. Second, Best Value procurements are resource intensive. Experienced staff are needed to participate in the preparation of the procurement documents and the evaluation of submittals. This project allowed for that participation. The Department also sought the approval of the project's implementation owner, Parks, Recreation and Neighborhood Services (PRNS) Department, to ensure it would be acceptable to award a contract to a bidder that did not submit the lowest bid. Third, a project with a similar scope was scheduled to advertise and open bids within a few months of this project, which would allow Public Works to evaluate possible impacts of Best Value procurement against a standard low-bid procurement.

This project was originally advertised for bidding on July 7, 2021, but the procurement was terminated due to a violation during the procurement process. The project was re-advertised on October 13, 2021.

Currently, construction is scheduled to begin in May 2022, with an anticipated completion in early 2023.

ANALYSIS

On November 18, 2021, the City received eight Best Value submittal packages for the subject project. Two packages were deemed non-responsive for failing to comply with the submittal instructions. The Qualifications Submittal Questionnaires from the six responsive submittal packages were evaluated as follows:

- A three-person Technical Evaluation Panel comprised of Public Works staff was established to score each bidder's safety record, relevant experience, and demonstrated management competence. Each panel member independently scored those sections and the average of the three scores was used in the bidders' Qualification Scores.
- Reference checks were conducted by Public Works procurement staff to score each bidder's past performance.
- Public Works procurement staff assessed each bidder's labor compliance and financial condition on a pass/fail basis.

At the end of the evaluation period, each bidder was assigned a Qualification Score.

On January 6, 2022, the City opened the sealed bids submitted with each responsive Best Value submittal package, with the following results:

Bidder	Base Bid	Variance	Bid Alt #1	Variance	Total
Engineer’s Estimate	\$2,494,000	---	\$6,000	---	\$2,500,000
Azul Works, Inc.	\$2,817,000	12.68%	\$15,000	150%	\$2,832,000
Beals Martin and Associates, Inc.	\$3,629,705	45.19%	\$50,000	733%	\$3,679,705
Guerra Construction Group	\$3,370,000	34.80%	\$74,940	1149%	\$3,444,940
NBC Construction and Engineering, Inc.	\$3,171,640	26.87%	\$8,776	46%	\$3,180,416
Robert A. Bothman Construction	\$3,196,000	27.84%	\$13,500	125%	\$3,209,500
Suarez & Munoz Construction, Inc.	\$3,574,800	42.99%	\$40,000	566%	\$3,614,800

The procurement documents specified that total bid price included the base bid and bid alternate #1.

Using the formula specified in Section 27.12.040 of the San José Municipal Code, each bidder’s total bid price was divided by its Qualification Score to determine cost per quality point:

Bidder	Bid Price	Qualification Score	Cost Per Quality Point (Bid Price ÷ Qualification Score)
Azul Works, Inc.	\$2,832,000	413.77	6,844.38
Beals Martin and Associates, Inc.	\$3,679,705	485.11	7,583.30
Guerra Construction Group	\$3,444,940	502.89	6,850.29

NBC Construction and Engineering, Inc.	\$3,180,416	518.44	6,134.59
Robert A. Bothman Construction	\$3,209,500	646.10	4,967.50
Suarez & Munoz Construction, Inc.	\$3,614,800	625.10	5,782.75

Based on the above, Robert A Bothman Construction is the Best Value bidder because it has the lowest resulting per quality point.

Robert A Bothman Construction has completed several projects for the City within the last twenty years, including Cannery Park, Almaden Lake Park Improvements, and Plata Arroyo Skate Park. The Technical Evaluation Panel scored their Qualifications Submittal Questionnaire highly in terms of relevant experience, safety record, and demonstrated management competence. Public Works procurement staff performed reference checks to evaluate past performance, and Robert A Bothman Construction was given high scores from their references. No labor compliance violations were discovered. As such, staff considers Robert A Bothman Construction and responsible bidder and recommends award of the contract to them.

Robert A Bothman Construction’s bid is in line with recent bids for similar projects and staff considers the price fair and reasonable for the work.

San José Municipal Code Section 27.04.050 provides that the contingency for all public works contracts (except those involving the renovation of a building or buildings) cannot exceed ten percent of the total contract amount. Staff recommends a ten percent contingency, which should be sufficient to account for unforeseen conditions that might arise during construction.

Project Labor Agreement Applicability

A project labor agreement (PLA) is not applicable to this project as the engineer’s estimate is under three million dollars.

Local and small business outreach

Procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San José Municipal Code defines a “local business enterprise” as one with, “...a legitimate business presence in Santa Clara County, California.”, and “small business enterprise” as “...a local business enterprise with thirty-five (35) or fewer employees.” Procurement staff sent bid invitations to 2,902 vendors, and documents were downloaded by 25 vendors, approximately 5 of which were located within Santa Clara County and therefore local. The recommended contractor is a local and a small business enterprise. None of the listed subcontractors are local or small business enterprises.

CONCLUSION

Awarding the Best Value bid for the project 9217- Park: All Inclusive Playground – Emma Prusch – Re-Bid submitted by Robert A Bothman Construction in the amount of 3,209,500 and approving a ten percent contingency will allow the project to proceed, providing the third all-inclusive playground for City of San José residents.

EVALUATION AND FOLLOW-UP

No additional follow up action with the City Council is expected at this time.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

COORDINATION

This memorandum has been coordinated with the City Attorney’s Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Project Delivery:	\$ 1,269,780*
Construction:	\$ 3,209,500
Contingency:	\$ 320,950
TOTAL PROJECT COSTS	\$ 4,800,230
Prior Year Expenditures and Encumbrances:	\$581,571
TOTAL REMAINING PROJECT COSTS	\$4,218,659

* Project delivery includes \$612,713 for Design Services and \$657,067 for Construction Management and Inspection Services.

2. COST ELEMENTS OF AGREEMENT/CONTRACT:

MOBILIZATION/TRAFFIC CONTROL	\$291,800
UTILITY CONFLICT COST ALLOWANCE	\$25,000 (Allowance)
TEMPORARY EROSION AND SEDIMENT CONTROL	\$39,000
EMERGENCY EROSION AND SEDIMENT CONTROL ALLOWANCE	\$10,000 (Allowance)
SITE LIGHTING	\$78,000
DEMOLITION AND SITE CLEARING	\$37,000
PLAYGROUND EQUIPMENT	\$1,171,000
PLAYGROUND PROTECTIVE SURFACING	\$195,000
SITE FURNISHINGS	\$198,000
PREFABRICATED RESTROOM	\$360,000
GRADING	\$220,000
RIGID PAVING	\$196,000
DECOMPOSED GRANITE PAVING & LANDSCAPE STONE	\$28,000
PLANTING PREPARATION/PLANTS/PLANTING IRRIGATION	\$272,000
STORM DRAINAGE UTILITIES	\$70,000
OPERATION AND MAINTENANCE PERIOD	\$5,200
BID ALT 1: ENTRY ARBOR	\$13,500
TOTAL BASE BID AMOUNT (ITEMS 1 THROUGH 17, INCLUSIVE)	\$3,209,500

3. SOURCE OF FUNDING: 139 – Gift Trust Fund

131 – Emma Prusch Fund

375 – Subdivision Park Trust Fund

382 – Construction Tax and Property Conveyance Tax Fund:
Parks Purposes Council District #5

391 – Construction Tax and Property Conveyance Tax Fund:
City-wide Parks Purposes

471 – Parks and Recreation Bond Projects Fund

4. FISCAL IMPACT: This facility was anticipated to open 2021-2022 and was included as a Committed Addition in the 2022-2026 Five-Year Forecast and Revenue Projections for the General Fund. Subsequently, these costs were incorporated in the 2021-2022 Adopted Operating Budget for PRNS. This project is now expected to open in January

2023, with estimated annual operating and maintenance costs associated with this facility of \$122,000 in the General Fund.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Total Appn	Rec. Budget Action	Amt. for Contract	2021-2022 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	409E	All Inclusive Playground – Emma Prusch	N/A	\$300,000	\$300,000	N/A	N/A
375	8845	Future PDO/PIO Projects Reserve	\$16,725,817	(\$300,000)	N/A	605	02/08/22, 30717
382	409E	All Inclusive Playground – Emma Prusch	\$802,000	\$466,000	\$1,260,154	432	10/19/21, 30682
382	8999	Ending Fund Balance	\$2,529,829	(\$466,000)	N/A	431	02/08/22, 30717
391	409E	All Inclusive Playground – Emma Prusch	\$1,981,000	N/A	\$1,263,687	432	10/19/21, 30682
139	2862	Nicholas Prusch Swimming	\$385,659	N/A	\$385,659	432	10/19/21, 30682
131	409E	All Inclusive Playground – Emma Prusch	\$284,000	N/A	N/A	432	6/22/21, 30621

HONORABLE MAYOR AND CITY COUNCIL

February 22, 2022

Subject: Actions Related to the 9217 – Park: All-Inclusive Playground - Emma Prusch – Re-Bid Project

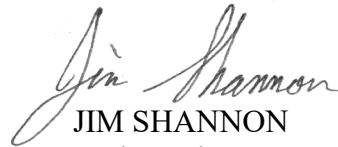
Page 9

CEQA

Categorically Exempt, File No. PP18-022, CEQA Guideline Section 15303 New Construction or Conversion or Small Structures. .

/s/
MATT CANO
Director of Public Works

/s/
JON CICIRELLI
Director of Parks, Recreation, and
Neighborhood Services


JIM SHANNON
Budget Director

For questions, please contact Katherine Brown, Deputy Director of Public Works, at (408) 795-1679.