



COUNCIL AGENDA: 05/17/22

FILE: 22-699

ITEM: 2.14

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jon Cicirelli
Jim Shannon

SUBJECT: SEE BELOW

DATE: May 4, 2022

Approved

Date

05/05/22

COUNCIL DISTRICT: 3

**SUBJECT: REPORT ON BIDS AND AWARD OF CONSTRUCTION CONTRACT FOR
THE 9509 - NEWBURY PARK PROJECT**

RECOMMENDATION

- (a) Report on bids and award of construction contract for the 9509 - Newbury Park Project to the low bidder, Stockbridge General Contracting, Inc., for the base bid and bid alternate No. 1 in the amount of \$1,303,900 and approve a five percent contingency in the amount of \$65,195.
- (b) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Increase the Newbury Park Development appropriation to the Parks, Recreation, and Neighborhood Services Department by \$121,000; and
 - (2) Decrease the Future Parkland Dedication Ordinance/Parkland Impact Ordinance Projects Reserve by \$121,000.

OUTCOME

Approval of the construction contract to Stockbridge General Contracting, Inc. will enable the Newbury Park Project to proceed. Approval of a five percent contingency will provide funding for any unanticipated work necessary for the proper construction of the project. The completed project will be constructed on a one-acre rectangular parcel in northeast San José.

BACKGROUND

Newbury Park is located in Council District 3 near the intersection of King Road and Mabury Road. The site sits between Newbury Park Drive to the north and Dobbin Drive to the south. LINQ Apartments are immediately adjacent to the west, and King and Dobbin Transit Village are located to the east. The park will meet the recreational needs of the emerging residential community and is consistent with the City's General Plan for this area. The park design features amenities such as separate play areas for children aged 2-5 (Tot Lot) and aged 5-12 (Youth Lot), hop-scotch, play elements, picnic area, open turf for informal play, drinking fountain, low perimeter fencing, seating, planting and irrigation, and other site furnishings.

The plan set submitted for bids included one Bid Alternate to provide solar powered park lighting. Bid Alternates present an opportunity for the City to include additional features in the awarded contract should the bids be lower than the base project scope. Though the qualifying bids received were higher than the Engineer's Estimate, City staff is recommending award of the Bid Alternate in this case.

Construction is scheduled to begin in July 2022, with completion anticipated in February 2023.

ANALYSIS

Bids were opened on February 10, 2022. Twelve bids were submitted, three of which were deemed non-responsive for failing to provide the bidder's experience information requested by the City. The responsive bids were as follows:

<u>Contractor</u>	<u>Base Bid</u>	<u>Bid Alt Total</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>% Over/ (Under) Total Bid Eng. Est.</u>
Engineer's Estimate	\$1,155,000	\$18,500	\$1,173,500	---	---
Stockbridge General Contracting, Inc. (Clovis, CA)	\$1,262,400	\$41,500	\$1,303,900	\$130,400	11.11
Redgwick Construction Company, Inc. (Oakland, CA)	1,247,800	67,300	1,315,100	141,600	12.06
Guerra Construction Group. (Santa Clara, CA)	1,277,844	67,470	1,345,314	171,814	14.64
Suarez & Munoz Construction, Inc. (Hayward, CA)	1,307,500	48,000	1,355,500	182,000	15.50
Galeb Paving, Inc. (Saratoga, CA)	1,307,300	60,830	1,368,130	194,630	16.59
Redwood Engineering Construction, Inc.	1,298,800	75,000	1,373,800	200,300	17.06

(San José, CA)					
McGuire and Hester, Inc. (Alameda, CA)	1,371,500	38,600	1,410,100	236,600	20.16
Marina Landscape, Inc. (Orange, CA)	\$1,412,500	\$70,000	\$1,482,500	\$309,000	26.33
SBay Construction, Inc. (San José, CA)	\$1,926,572	\$113,379	\$2,039,951	\$866,451	73.83

Section 3-1.01D of the Special Provisions (“Bid Alternate”) specifies how the City will determine the low bid when bid alternates are included. The section requires the City to determine the low bid by adding the base bid to any bid alternates until a ceiling price is reached. If, for all the bidders, the addition of the base bid to the bid alternate results in a figure greater than the ceiling, the low bid is determined by base bid alone. In this instance, the City did not set a ceiling price, and the low bid was therefore determined by adding the base bid to the bid alternate.

The low bid was submitted by Stockbridge General Contracting, Inc. Although their bid was over the Engineer’s Estimate, staff considers this reasonable for the work involved, particularly in consideration of current market conditions that have escalated the cost of materials. As this project includes a significant number of materials (i.e., playground equipment), it is not surprising that bidders took past and possible future escalations into consideration. Staff recommends awarding the base bid and bid alternate number 1 to Stockbridge General Contracting, Inc.

Stockbridge General Contracting, Inc. has worked on a City capital improvement project before; they were responsible for constructing the Mise Park Renovation Project which was completed in April 2016. Procurement staff also conducted reference checks and verified that this contractor has satisfactorily completed numerous park construction projects in California, notably in the cities of Bakersfield and Greenfield.

On March 4, 2022, IBS USA, Inc. submitted a protest of the City’s intent to award the construction contract to Stockbridge General Contracting, Inc (Attachment A). While the protest did not contain any statement of the legal and factual grounds for protesting the award, Public Works responded with a detailed explanation IBS USA, Inc.’s failure to provide the City with evidence that they’ve completed projects with a similar scope and magnitude within the last seven years.

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 five percent contingency, which should be sufficient to account for unforeseen conditions that might arise in the construction.

Project Labor Agreement Applicability

The City's project labor agreement 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 and "small business enterprise" as a local business enterprise with 35 or fewer employees. Procurement staff sent bid invitations to 2,931 vendors, and documents were downloaded by 38 vendors, approximately seven of which were located within Santa Clara County and therefore local. The recommended contractor is not a local or small business enterprise. However, two local subcontractors will be performing work on the project: R.H. Concrete (San José) will be performing concrete work valued at approximately \$150,000 and Pipe-Net Inc (Gilroy) will be performing underground utility work valued at approximately \$85,000.

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.

PUBLIC OUTREACH

The Public Outreach phase of the project included two community workshops in May and June of 2008, after which the project was placed on hold for eleven years due to a downturn in the economy. A third community meeting was held on May 21, 2019, at the Educational Park Branch Library and an online survey was conducted from May 22 to June 5, 2019 to further engage the public in the design development of the park.

This memorandum will be posted on the City's website for the May 17, 2022 Council agenda.

COORDINATION

This proposed project and memorandum has been coordinated with the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

1. COST OF PROJECT:

Project Delivery	\$572,905*
Construction	\$1,303,900
Contingency	\$65,195
TOTAL PROJECT COSTS	\$1,942,000
Prior Years' Expenditures & encumbrances	\$193,944

TOTAL REMAINING PROJECT COSTS **\$1,748,056**

*Project delivery includes \$242,505 for Design Services and \$330,400 for Construction Management and Inspection Services.

COST ELEMENTS OF AGREEMENT/CONTRACT

Mobilization, Temporary Controls & Water Pollution Control	\$202,500
Site Preparation/Demolition & Grading	\$73,500
Storm Drain, Sanitary Sewerage and Drinking Fountain Utilities	\$101,000
Signage & Site Furnishings	\$53,600
Decomposed Granite Paving	\$13,600
Play and Exercise Equipment	\$211,400
Fencing	\$176,500
Hardscape	\$155,000
Landscape & Irrigation	\$188,300
Playground Protective Surfacing	\$26,500
Electrical	\$53,000
Maintenance	\$7,500
Bid Alt	\$41,500
Total Base Bid Amount (Items 1 Through 13, Inclusive)	\$1,303,900
For The Lump Sum Total Of:	

- SOURCE OF FUNDING: 375 – Subdivision Park Trust Fund
 380 – Construction Tax and Property Conveyance Tax Fund:
 Parks Purposes Council District #3
- FISCAL IMPACT: This facility is anticipated to open in 2022-2023 and the cost to operate and maintain this park was included as a committed addition in the 2023-2027 Five-Year Forecast and Revenue Projections for the General Fund and has been

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Subject: Actions Related to the 9509 - Newbury Park Project

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incorporated in the 2022-2023 Proposed Operating Budget for Parks, Recreation, and Neighborhood Services Department. This project is anticipated to open in February 2023 with an estimated annual operating and maintenance costs associated with this facility of \$27,000 in the General Fund.

BUDGET REFERENCE

The table below identifies the funds 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	414K	Newbury Park Development	\$1,568,000	\$121,000	\$1,243,900	631	10/19/21, 30682
375	8845	Future PDO / PIO Projects Reserve	\$16,425,817	(\$121,000)	N/A	671	3/8/22, 30734
380	414K	Newbury Park Development	\$60,000	N/A	\$60,000	416	6/22/21, 30621

CEQA

Addendum to the King and Dobbin Transit Village and US 101-Oakland/Mabury Transportation Development Policy Final Environmental Impact Report, and addenda there to for the Newbury Park Project, File No. PP19-055 (Resolution No. 79533).

/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.

Attachment A – Bid Protest Letter
Attachment B – Location Map



CA LIC # 825156 ; 418 RAMSELL STREET, SAN FRANCISCO, CA 94132 ;TEL 415-587-8729

03/04/2022

PUBLIC WORKS

Mr. Matt Cano (Director)

City of San Jose City Hall

200 E Santa Clara St 5th Floor

San Jose , CA 95113-1905

Matt.Cano@sanjoseca.gov

408-535-8300

PW_PROCUREMENT@SANJOSECA.GOV

RE: BID PROTEST

9509-PARK: NEWBURY PARK PROJECT

Dear Matt Cano:

After reviewing TERRAMARK GENERAL ENGINEERING CONTRACTORS, INC, FAILED TO REGISTER IN BIDDINGO AS PER SPECS "MUST" BE REGISTERED TO PARTICIPATE IN THIS BID, THEREFORE , THEIR BID IS NON RESPONSIVE, IBS USA INC CAME 2ND REGISTERED WITH BIDDINGO. THEREFORE IBS IS THE LOW BIDDER. PER LAUREN THE PROCUREMENT OFFICER THAT OUR EXPERIENCE FORM IS INCOMPLETE, IBS HAD LISTED 3 PROJECTS SIMILAR TO NEWBURY THAT SHOULD QUALIFY IBS TO BUILD NEWBURY PARK. I HAVE ATTACHED ADDITIONAL PARK EXPERIENCE FOR YOUR REVIEW.

STOCKBRIDGE IS THE 4TH BIDDER, MOSTLY THE LOWEST THREE GET THE PROJECT AND IF IT DON'T THEN PROJECT GO TO REBID, PROCUREMENT OFFICER LAUREN TO GIVE IT TO 4TH IS A SIGN OF PREJUDICE AGAINST THE 3 LOW BIDDER WHO ARE FOREIGNERS AND MBE BUT STILL ALL THREE IS USA FIRMS WITH USA LICENSES, NOT GIVING PROJECT TO IBS USA INC WILL MAKE CITY OF SAN JOSE A RACIST ORGANIZATION TO GIVE IT TO 4TH BIDDER WHO IS SUPERIOR ESTABLISHED & WHITE. PUBLIC BIDDING THERE IS NO PLACE FOR THIS KIND OF BEHAVIOUR TO SIDE WITH SUPERIOR CONTRACTOR AND NOT GIVE A CHANCE A SMALL COMPANY LIKE IBS USA INC TO GROW AND BE ABLE TO CLIMB UP. I AM SURE STOCKBRIDGE 20 YRS AGO RECEIVED PROJECTS WITH LESS EXPERIENCE THAT CLIMBED UP THE LEADER OF SUCCESS. THEY ALREADY HAVE PLENTY WORK AND THERE IS NO NEED TO HELP THEM FURTHER, IT BECOME DISCRIMINATION AGAINST SMALL NON WHITE COMPANIES IF STOCKBRIDGE GET THE PROJECT, IT MAY LEAD TO A CIVIL RIGHT LAW SUIT FUNDED BY STATE OF CALIFORNIA.

IN THE END I RECOMMEND THAT CITY OF SAN JOSE AWARD THE PROJECT TO IBS USA INC A MINORITY SMALL COMPANY WHO INVESTED HEAVILY IN BIDDING AND NOT GET ANYTHING IT IS A SHAME.

Please send all correspondence to designated email of Project Manager IBSUSA.MARSHALL@GMAIL.COM OR CALL 909-362-9725

Sincerely,

Marshall L Leoman
IBS USA INC

STATEMENT OF BIDDER'S EXPERIENCE

The bidder must provide a minimum of three (3) completed projects as references. The three (3) references must demonstrate the bidder's experience and ability to complete the construction work as required under the terms of the Contract. The three (3) completed projects used as references must meet the following requirements.

Requirement No. 1: The projects must have involved construction substantially similar to the construction for this Project. "Substantially similar" means the following:

- a. The original contract amount was at least 70% of the engineer's estimate for this Project. If no engineer's estimate is provided for this Project, then the original contract amount of the previous project must have been at least 70% of the bidder's bid amount on this Project; and
- b. The projects must have involved the same elements of construction using similar construction trades as this Project.

Requirement No. 2: The substantial completion date for each project must have been after January 1, 2015.

<u>Project Name / Location</u>	<u>Owner Name and Contact Information</u>	<u>Scope of Work</u>	<u>Initial Contract Amount</u>	<u>Substantial Completion Date</u>
MEMORIAL PARK SITE IMPROVEMENT 1325 PORTLAND AVE, ALBANY, CA CONT NO C17-02	CITY OF ALBANY PUBLIC WORKS DEPT FERD DEL ROSARIO 510-528-5766	CONCRETE WALKWAY, METALL TRELLIS, CURBS LANDSCAPE, IRRIGATION	\$69,300	06/30/2017
PWC 8874-B YEAR 2 BIKEWAY IMPROVEMENT VARIOUS LOCATIONS FREMONT CA	MOHIT CHAUDHARY 510-494-4703 MCHAUDHARY@FREMONT.GOV CITY OF FREMONT PUBLIC WORKS DEPT	REMOVE E DELINEATORS & INSTALL NEW K-71 FLEXIBLE BOLLARD FOR VARIOUS LOCATION	\$635,900	03/31/2021

<u>Project Name / Location</u>	<u>Owner Name and Contact Information</u>	<u>Scope of Work</u>	<u>Initial Contract Amount</u>	<u>Substantial Completion Date</u>
Mape Memorial park playground replacement 11711 Mape Way, Dublin, CA 94568	CITY OF DUBLIN ROSEMARY ALEX 925-833-6646	REMOVE E PLAY STRUCTURE INSTALL N PLAY EQUIPMENT	\$130,988	02/29/2020
BALBOA PARK & POOL 51 HAVELOCK STREET SF, CA 94112	CITY & COUNTY OF SAN FRANCISCO 415-554-5827	RENOVATION OF AN EXISTING PARK & POOL	\$2,000,000	02/15/2019
SOUTHEAST HALTH CENTER EXPANSION 2403 Keith Street SAN FRANCISCO, CA 94124	CITY OF SAN FRANCISCO DEPT OF PUBLIC WORKS TONG CHEUNG 415-333-9788	GALVANIZED STEEL FENCE STEEL FRAMING HANDRAILS ADA IMPROVEMENT	\$1,388,000	10/31/2021

NOTICE TO CONTRACTORS

NOTICE IS HEREBY GIVEN that the City of San José (“City”) seeks sealed bid proposals in accordance with the following.

Project Name: 9509 - PARK: Newbury Park("Project")

Description of Work: The Project generally involves

New construction will include park elements such as, separate play areas for children aged 2-5 (Tot Lot) and for those aged 5-12 (Youth Lot), picnic area, open turf for informal play, drinking fountain, perimeter fencing, benches, hop scotch and other park amenities.

Engineer's Estimate: \$1,155,000.00

FILING OF BIDS

All proposals must be filed with the Director of Public Works, City of San José, City Hall, 200 E. Santa Clara St., 5th Fl., San Jose, CA 95113-1905, on or before 3:00 p.m. on Thursday, February 3, 2022.

A representative of the Director of Public Works will publicly open and declare the aggregate bid of each bidder, using the Zoom virtual meeting platform, shortly after the filing deadline. Interested parties can access the virtual bid opening by visiting <https://www.sanjoseca.gov/CIPBids>.

OBTAINING PROCUREMENT DOCUMENTS

The City is using Biddingo, an online bid solicitation website, to facilitate this procurement. **Bidders must register with Biddingo to participate in this procurement.** There is no cost associated with registering.

To register, bidders must go online to <https://www.biddingo.com/sanjose>. This procurement is registered under the bid number and bid name above and has the following commodity code classifications(s):

100307 - Construction- Recreational Facilities (Includes Parks. Athletic Facilities, Trails)

All documents and information related to this procurement, including the Project plans and specifications, are on the Biddingo website under the bid number and bid name above. **Once registered, bidders can view and download information regarding this procurement, including the bid and contract documents, as well as submit questions related to the bid and contract documents.**

Once a bidder views or downloads documents for this bid, the bidder becomes a “document taker.” Biddingo will send “document takers” a notification every time the City posts an addendum, responds to a question and/or provides new information related to this procurement. Each bidder is responsible for selecting the appropriate notification options related to its Biddingo account. Following review by the City, proposals will be uploaded to Biddingo.

BIDDER’S RESPONSIBILITY TO CHECK FOR UPDATES

Attachment B

Location Map

9509 - NEWBURY PARK PROJECT

