



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL & AGENCY BOARD

FROM: Del D. Borgsdorf
Harry S. Mavrogenes

SUBJECT: SEE BELOW

DATE: April 14, 2004

Council District: 5
SNI AREA: Gateway East

SUBJECT: APPROVAL OF AN AWARD TO ROBERT A. BOTHMAN INC. AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE SERVICES FOR REDEVELOPMENT CAPITAL PROJECTS FUND (CITY-SIDE REDEVELOPMENT FUND) FOR THE PLATA ARROYO PARK SKATE FACILITY PROJECT AND ADOPTION OF THE PRIMARY BENEFIT DETERMINATION FOR EXPENDITURE OF REDEVELOPMENT FUNDS.

RECOMMENDATION

- (a) It is recommended that the City Council:
- (1) Accept the report on bids and award a contract for the Plata Arroyo Park Skate Facility Project to the lowest responsive bidder, Robert A. Bothman, Inc., to include the base bid in the amount of \$382,361, an Add Alternate No. 3 in the amount of \$17,400, and a 10% contingency allocation in the amount of \$38,000. CEQA: Exempt, PP03-08-251.
 - (2) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
 - a. Establishing an appropriation to the Department of Parks, Recreation and Neighborhood Services for Plata Arroyo Park Skate Facility Project (PSM 366) in the amount of \$94,300.
 - b. Increasing the estimate for Earned Revenue by \$94,300.
 - (3) Adopt a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements in connection with the Plata Arroyo Park Skate Facility Project.
- (b) It is recommended that the Agency Board adopt a resolution making certain determinations regarding the Plata Arroyo Park Improvements Project's benefit to the Strong Neighborhoods Initiative Project Area.

BACKGROUND

Plata Arroyo Park is an existing 11-acre neighborhood park located in east San José at the intersection of King and McKee Roads. The park is bordered by King Road to the west, McKee Road to the north, Silver Creek to the east and a residential neighborhood to the south (map attached).

Beginning January 30, 2003, a series of community meetings were held to solicit input on the proposed improvements and define the project scope. In conjunction with three community meetings, two skate park design workshops were conducted to gain consensus on the size and elements to be included in the skate park design. This inclusive coordination greatly facilitated development of a project uniquely responsive to the community needs.

The base bid scope of work for this project includes a 9,000 square-foot concrete skate park facility, pathways, fencing, irrigation and landscape planting.

Construction is scheduled to begin in June with completion in November 2004.

This project is funded from Council District 5 Construction and Conveyance Tax Funds (\$255,000), Park Trust Funds (\$262,000) and the Redevelopment Agency (\$94,300).

ANALYSIS

In addition to the base bid scope of work there are three Add Alternate bid items as follows:

<u>Description</u>	<u>Engineer's Estimate</u>
Add Alternate No. 1: Park Benches and Trash Receptacles	\$4,000
Add Alternate No. 2: Drinking Fountain and Bike Rack	8,000
Add Alternate No. 3: Tubular Steel Fence	2,500

<u>Contractor</u>	<u>Add Alt No. 1</u>	<u>Add Alt No. 2</u>	<u>Add Alt No. 3</u>
Tinny Construction Corporation	\$7,000	\$14,220	\$24,348
Scapes, Inc.	5,691	4,450	20,400
LoneStar Landscape, Inc.	4,000	8,000	12,000
A.J. Vasconi General Engineering	3,450	6,250	6,450
JFC Construction, Inc.	4,852	8,375	7,395
Robert A. Bothman, Inc.	5,900	8,700	17,400
California Landsc. & Design, Inc.	3,800	3,400	3,800
Engineer's Estimate	4,000	3,500	2,500
Star Construction, Inc.	3,300	3,500	14,000

Bids were opened on January 22, 2004 with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alt No. 3</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
Tinny Construction Corporation (Redwood City)	\$464,249	\$24,348	\$488,597	\$173,097	55
Scapes, Inc. (Half Moon Bay)	450,312	20,400	470,712	155,212	49
LoneStar Landscape, Inc. (San Martin)	456,500	12,000	468,500	153,000	48
A. J. Vasconi General Eng. (Concord)	443,250	6,450	449,700	134,200	43
JFC Construction, Inc. (Lafayette)	394,297	7,395	401,692	86,192	27
Robert A. Bothman, Inc. (San José)	382,361	17,400	399,761	84,261	27
California Landscape & Design, Inc. (Upland)	368,900	7,200	372,700	57,200	18
Engineer's Estimate	313,000	2,500	315,500	---	---
Star Construction, Inc. (San Bruno)	292,000	14,000	306,000	9,500	(3)

The two low bids are non-responsive.

The lowest bidder, Star Construction, Inc., failed to include a Statement of Bidder's Experience. The bidders were required to submit a form, titled "Statement of Bidder's Experience," setting forth work of similar magnitude and character to the work required by the Plata Arroyo Park Skate Facility Project. In its bid, Star Construction indicated that this information was "on file", but did not provide any evidence of their experience. Additionally, the City does not maintain a "file" of a bidder's experience. In response, Star Construction attempted to comply with the bid requirement by submitting its statement of experience **after** the bids were opened. However, allowing Star Construction to comply with bid requirements **after** bids have opened is not permissible. Doing so would give Star Construction a competitive advantage by allowing it to decide whether to accept the project by meeting the bid requirement. Furthermore, staff does not recommend waiving the failure to comply with this bid requirement as a minor irregularity under Section 2-1.06 of the Standard Specifications because the required information assists the City in evaluating the bidder's ability to perform the project. Thus, staff recommends rejecting the bid of Star Construction.

The second lowest bidder, California Landscape and Design, Inc., failed to include a signed addendum with its bid proposal. Section 2-1.14 of the Standard Specifications states that the bidder's failure to sign and submit any or all addenda with the bid shall be cause for rejection of the bid. The addendum is critical because it requires the contractor to include a "Water Pollution Control Plan" as part of the construction contract in addition to the supplier phone numbers for

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miscellaneous site furniture. Accordingly, the failure to submit the addenda cannot be waived as a minor irregularity under Section 2-1.06 of the Standard Specifications. Thus, staff recommends rejecting the bid of California Landscape and Design, Inc.

Lowest Responsive Bid

The lowest responsive base bid, submitted by Robert A. Bothman, Inc., in the amount of \$382,361 for the base bid, is 22 percent above the Engineer's Estimate. An evaluation of the bid submitted by Robert A. Bothman, Inc., determined that the design consultant for the project anticipated lower costs for the site preparation and skate park earthwork. The bid is considered acceptable for the work involved in the project.

Add Alternate No. 3

Subsequent to the bid opening and in consultation with the Department of Parks, Recreation, and Neighborhood Services, and the Council Office, Add Alternate No. 3 is recommended for award. It was determined that Add Alternates No. 1 and 2 were not essential for the completion of the project and are not recommended to be awarded.

Contingency

Council policy provides for a standard contingency of five percent on public works park projects. On this project, however, a contingency of ten percent is requested due to the complexity of the construction necessary for such a facility and to respond to unforeseen conditions that may arise during the construction of this project.

With the requested appropriation adjustment, funds budgeted for this project are sufficient to provide for the recommended difference between the Engineer's Estimate and the increase in the base bid construction contract (\$69,900), award of Add Alternate No. 3 (\$17,400) and an increase in the contingency amount (\$7,000). The source of funding for the total amount of \$94,300 would be a transfer from the Redevelopment Agency.

Project Description

On September 17, 2003, the City of San José adopted the Plata Arroyo Park Master Plan, consisting of the proposed construction of new capital improvements for the City-owned Plata Arroyo Park. The City has requested funding from the Agency in order to implement the proposed improvements. This project is located outside the boundary of, but immediately adjacent to the Gateway East and Five Wounds/Brookwood Terrace Strong Neighborhoods in the Strong Neighborhoods Initiative Redevelopment Project Area, as shown on the attached map.

The current Plata Arroyo Park is underutilized and requires more capital improvements and renovations in order to enhance the recreational facilities for youth and families living in the SNI Redevelopment Project Area immediately adjacent to the park. The Council approved 2003 Plata Arroyo Master Plan includes a skateboard park, landscaping, new paths and lighting, water fountains, garbage receptacles, shade trees, call boxes, bathrooms, and a neighborhood center. Park improvements are identified as the 5th priority of the Gateway East SNI Plan adopted by Council on June 3, 2003. The Redevelopment Agency and the City of San José would coordinate

development of the park improvements. Construction of the new skate park is expected to commence June 2004 and is scheduled for completion in November 2004. Additional improvements are being scoped and developed for implementation in the 2004-2005 fiscal year.

Primary Benefits

California Redevelopment Law requires that the expenditure of certain Agency funds must primarily benefit a project area. The new skateboard facility will primarily benefit the SNI Redevelopment Project Area as follows: First, the skateboard facility will be located immediately adjacent to and will primarily serve two SNI areas in the Strong Neighborhoods Initiative Redevelopment Area. Second, since the project is located directly adjacent to the SNI Project Area, the new skateboard facility and additional proposed park improvements will assist in the elimination of blight by providing convenient and appropriate recreational activities for youth and adults located in the SNI Project Area.

Public Improvements and Determinations

California Redevelopment Law requires that the City Council make certain determinations in conjunction with approval of the Agency funding of public improvements. The City Council must determine that:

- *The public improvements will be of benefit to the Strong Neighborhoods Redevelopment Project Area or the immediate neighborhood in which the project is located.*

The skateboard facility and proposed park improvements will provide convenient and appropriate recreational activities for youth and adults located in the SNI Redevelopment Area and will serve and benefit the immediate neighborhood in which the center is located by providing immediate physical improvements to the park making the neighborhood a more desirable place to live.

- *The City has no other reasonable means of funding the public improvements.*

No other entity, either public or private, has funds available to finance these public improvements. The City has no funds budgeted for such purposes and, without the Agency contribution, the skateboard facility will not be built.

- *The public improvements will assist in the elimination of one or more blighting conditions in the Project Area.*

The public improvements will assist in the elimination of the underutilization of the park by removing a berm currently located where the skateboard facility will be located increasing visibility and decreasing opportunity for conducting inappropriate behavior. Furthermore, the park is not properly utilized. It contains graffiti and litter impacting the quality of life in the neighborhood immediately adjacent to it. The lack of restrooms contributes to unsanitary conditions and inappropriate behavior in the park making it unattractive and undesirable for area residents.

- *The public improvements are consistent with the Implementation Plan for the Project Area.*

The Redevelopment Agency Five-Year Implementation Plan provides, among other things, for the construction of public facilities that support or enhance neighborhood and residential environments, including skateboard facilities and proposed park improvements. The skateboard facility and proposed park improvements will provide recreational activities for youth and safer more sanitary conditions in the park. As such, the construction of the skateboard facility is consistent with the Agency's Five-Year Implementation Plan.

PUBLIC OUTREACH

To solicit contractors, this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record*. Bid packages for all Department of Public Works construction projects were provided to various contractor organizations and builder's exchanges.

COORDINATION

This project and memorandum has been coordinated with the City Attorney's Office, the Redevelopment Agency's General Counsel, the Redevelopment Agency, the Departments of Parks, Recreation and Neighborhood Services, Public Works, General Services, Planning, Building and Code Enforcement, the City Manager's Office and the District 5 Council Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$399,761

2. COST OF PROJECT:

Project Delivery	\$173,000	*
Construction	399,761	
Contingency	<u>38,000</u>	
TOTAL	\$610,761	

* A total of \$122,016 was expended/encumbered in FY 2002-2003 for project delivery costs.

3. SOURCES OF FUNDING: 375 – Park Trust Fund
382 – Construction and Conveyance Fund, District 5
450 – Services for Redevelopment Capital Projects Fund

4. FISCAL IMPACT: This project is consistent with the Council-approved Budget Strategy's Economic Recovery section in that it will spur construction spending in our local economy. The proposed operating and maintenance costs of this project have been reviewed and estimated to be approximately \$26,000 annually, beginning in December 2004. If the maintenance resources required for this facility are not forthcoming, the maintenance of this facility will be absorbed by the Department of General Services. There will be a corresponding drop in the maintenance level of other facilities, particularly in the immediate area, to accommodate the maintenance of this new facility.

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Agency funding for the proposed skateboard facility will come from the Agency's Adopted FY 2003-2004 Five-Year Capital Budget, Strong Neighborhoods Initiative, SNI Gateway East line item. That line item "Park Facilities: Enhance the park and recreational facilities in the neighborhood including Plata Arroyo Park..." in the amount of \$351,500 is the source of Agency's funds and will be reduced by \$94,300 with \$257, 200 remaining.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn*.	Amt. for Contract	Adopted Budget Page	Last Budget Action (Date, Ord. No.)
375	4456	Plata Arroyo Skate Park	125455	\$140,000	\$50,461	Page 663	
382	4741	Plata Arroyo Skate Park Development	125455	\$255,000	\$255,000	Page 491	
		Total		\$489,300	\$305,461		

*An appropriation action for \$94,300 is recommended as part of this memorandum in the Services for Redevelopment Capital Projects Fund (Fund 450) to provide additional funding necessary for the award of this contract.

CEQA

Exempt, PP03-08-251.

DEL D. BORGS DORF
City Manager

HARRY MAVROGENES
Interim Executive Director

Attachment

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I hereby certify that there will be available for appropriation in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Capital Fund) in the Fiscal Year 2003-2004 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$94,300.

LARRY D. LISENBEE
Budget Director