



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
Albert Balagso  
Larry D. Lisenbee

**SUBJECT:** SEE BELOW

**DATE:** 11-16-06

Approved *Kay Wines*

Date *11/20/06*

**COUNCIL DISTRICT:** 3  
**SNI:** Five Wounds/  
Brookwood Terrace

**SUBJECT: REPORT ON BIDS AND AWARD OF THE CONSTRUCTION CONTRACT FOR THE ROOSEVELT COMMUNITY CENTER – PACKAGE II PROJECT AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND**

**RECOMMENDATION**

- a. Report on bids and award of contract for the Roosevelt Community Center - Package II Project in the amount of \$14,046,940, for the base bid and Add Alternate Nos. 2 and 3 to the low bidder, Arntz Builders, Inc., and approval of a contingency in the amount of \$702,325.
- b. Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
  - 1. Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,370,000 for the Roosevelt Community Center – Multi-Service Project;
  - 2. Reduce the Roosevelt Center Gymnasium Design Project by \$263,000; and
  - 3. Reduce the Reserve: Future PDO/PIFO Projects by \$1,107,000.

**OUTCOME**

Award of a construction contract to Arntz Builders., Inc. will allow the Roosevelt Community Center - Package II Project to be built and occupied for use by the community. Approval of a five percent contingency will provide funding for any unanticipated work necessary for the completion of the project.

Approval of the Appropriation Ordinance amendments in the Subdivision Park Trust Fund will provide sufficient funding to award the project.

### **EXECUTIVE SUMMARY**

The purpose of this memorandum is to report on bids received for the Roosevelt Community Center project, a 30,000 square foot two-story building located in Roosevelt Park. This community center will serve as the main recreational and educational facility for District 3.

### **BACKGROUND**

The existing Roosevelt Community Center is located in Roosevelt Park, within a residential and commercial business area. The existing community center and park site is bordered by the San José Academy to the north, 20<sup>th</sup> and 21<sup>st</sup> Streets to the east, East Santa Clara Street to the south and Coyote Creek to the west (map attached). The City's *Greenprint for Parks and Community Facilities and Programs* calls for the expansion of the existing center to become the multi-service community center for District 3, which will serve as the main recreational and educational facility.

In January 2004, Council approved an amendment to the Roosevelt Park Master Plan. The amendment builds upon previous planning efforts, including the 1994 Roosevelt Park master plan and the 2002 Five Wounds/Brookwood Terrace Neighborhood Improvement Plan, developed as part of the Strong Neighborhoods Initiative. The 2004 master plan includes provisions for an expanded multi-service community center to replace the existing center. The proposed project will construct the new multi-service community center.

The geotechnical report for this project indicated unstable soil conditions at the site and recommended over excavation and re-compaction. To facilitate efficient project implementation, the project was split into two separate bid packages: Package I and Package II. Package I included the demolition of all existing buildings, excavation and re-compaction of the soil, and underground utility work. Package II includes construction of the proposed community center, surface parking and other related site work; and further utility improvements.

On May 9, 2006, Council authorized the Director of Public Works to award the construction contract for the Package I Project to DBS Construction Inc. Package I construction commenced in June 2006 and was completed in September 2006.

This proposed project (Package II) will construct a 30,000 square foot two-story building, containing various classrooms, administrative offices, fitness, dance, art and computer rooms, a teen lounge, and restrooms with lockers and showers. It also includes the construction of 78 new parking spaces, which will complement the 106 existing parking spaces, for a total of 184 spaces. This project will be LEED certified with the United States Green Building Council.

The Environmental Services Department (ESD) has allocated \$65,000 toward the project budget for construction of the storm water treatment. This budget will be used for porous paving and structured soil, both of which improve infiltration of storm water and filtration of pollutants.

In July 2006, staff conducted the pre-qualification process for general contractors as required by City policy. Thirteen general contractors responded to the Request for Qualifications (RFQ) and all were pre-qualified to provide bids for this project.

In addition to the base bid scope of work there are three Add Alternate bid items for Package II:

<u>Add Alternates Description</u>	<u>Engineer's Estimate</u>
1. Low voltage telecom and data cabling	\$164,000
2. Sprung wood floor in multi-purpose room	\$29,000
3. Stone veneer at exterior walls	\$71,000

Construction is scheduled to begin in January 2007 with completion in summer 2008.

**ANALYSIS**

Bids were opened on September 21, 2006 with the following results.

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alts 2 and 3</u>	<u>Total</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
John Plane Construction (Brisbane)	\$14,622,000	\$175,000	\$14,797,000	\$2,476,000	20
BRCO Constructors (Loomis)	14,590,000	192,000	14,782,000	2,461,000	19
Ralph Larsen & Sons (San Mateo)	14,235,000	95,000	14,330,000	2,009,000	16
Arntz Builders Inc (Novato)	13,989,000	57,490	14,046,490	1,725,490	15
<b>Engineer's Estimate</b>	<b>12,221,000</b>	<b>100,000</b>	<b>12,321,000</b>	-	-

<u>Contractor</u>	<u>Add Alt. No.1</u>	<u>Add Alt. No.2</u>	<u>Add Alt. No.3</u>
John Plane Construction	\$91,000	\$93,000	\$82,000
BRCO Constructors	100,000	100,000	92,000
Ralph Larsen & Sons	85,000	10,000	85,000
Arntz Builders Inc	108,000	6,550	50,940
<b>Engineer's Estimate</b>	<b>164,000</b>	<b>29,000</b>	<b>71,000</b>

The low bid submitted by Arntz Builders, Inc., is 15 percent above the engineer's estimate. Staff has evaluated the bid proposals and after speaking with both the bidders and pre-qualified contractors conclude that the following contributed to the high bid results:

- Less competitive bidding market due to an abundance of building construction projects;
- Impact of regional labor shortages contributing to bid volatility;
- The broad list of 13 pre-qualified general contractors discouraged some contractors from bidding due to the perception that the more established general contractors would have an advantage;
- The perception of a complex building design with extensive use of glass;
- Greater costs for documentation for LEED certification than was included in the estimate.

Since the bids received were within a five percent range of each other, staff believes the bid documents provided clear and adequate information to enable contractors to submit reasonable bids. Accordingly, staff believes the amount of the low bid is acceptable for the work involved in the project.

The low bidder, Arntz Builders, Inc., is an established contractor that has constructed a number of large projects over the years. However, based upon a couple of projects of which staff is aware, staff does have some concerns about this contractor.

Arntz Builders, Inc. constructed the Camden Multi –Service Community Center of which the City currently has beneficial use. The parties are currently engaged in a significant dispute over the project. Arntz completed the project 291 days beyond the contractual completion date. The City believes that Arntz is responsible for most, if not all, of the delay and is seeking liquidated damages of approximately \$900,000. On the other hand, Arntz Builders, Inc claims the City is responsible for the delay and has submitted to City a request for additional compensation of \$1,300,000 for delay. The parties are currently mediating the dispute and nearing a resolution of the issues.

During the prequalification process, Arntz Builders, Inc. indicated that during the last 5 years Contra Costa County had terminated an associated entity – Arntz Builders, a partnership – from work on an addition to its juvenile hall. Arntz Builders, Inc. stated that the termination was “for convenience” and not “for cause.” Staff subsequently contacted Contra Costa County, which confirmed that officially the termination was “for cause.” Subsequent investigation by staff revealed that Contra Costa County sued Arntz alleging unreasonable delay and poor quality work. The capital facilities manager for Contra Costa County recently informed the City that the parties had settled the litigation within the last year. He stated that the settlement did not include any admission of liability by Arntz and that Arntz was free to bid on future projects in Contra Costa County.

Although staff has some concerns about Arntz Builders, Inc., it is recommending that the City award of the construction contract for the base bid plus add alternates 2 and 3. The City Charter mandates the award of construction contracts to the low bidder unless the low bidder is not responsible. Finding a contractor “not responsible” is a serious action because it has a significant impact on a contractor’s future ability to obtain work. A public entity has the burden of establishing nonresponsibility and must provide the contractor with all the evidence upon which

a finding of nonresponsibility will be based. The contractor has the right to a hearing to challenge the evidence. Because of the serious consequences of being found nonresponsible, contractors have a strong incentive to contest the evidence, which can cause the process to be time-consuming.

Staff is unaware of any public entity having determined that Arntz is not responsible and is not recommending that the City pursue such a determination against Arntz in this project. However, to address staff's concerns about Arntz Builders, Inc., staff recommends the award with the following measures:

- 1) A neutral third party consultant will be retained to oversee and assist in evaluation of construction scheduling. If the contract is awarded to Arntz, the City will approach Arntz about sharing the use and cost of this neutral third party consultant as an additional Partnering measure for the project;
- 2) DPW will assign additional staff to provide more oversight and documentation during the construction phase.

Staff is recommending that add alternates 2 and 3 be awarded as part of the contract due to the favorable price for each submitted by the low bidder.

Council Policy provides for a standard contingency of ten percent on public works projects involving the construction of a building. However, staff recommends that the standard contingency be reduced to \$702,325 which is slightly less than a five percent contingency for this project. The standard contingency of ten percent is based on a project in which one contract is awarded for construction of all phases of the entire building. Staff would typically expect to see a significant part of the contingency used to deal with issues arising during the kind of work completed during the Roosevelt Community Center Package-I Project completed in September 2006. Accordingly, staff believes a five percent contingency should be sufficient for the work involved in Package II. If this contingency proves insufficient, staff would request an additional five percent at that time.

This memorandum includes a request for appropriation ordinance amendments in the Subdivision Park Trust Fund, which if approved, will provide the additional funds necessary to award and complete the project. A total of \$1,370,000 is being allocated from the Subdivision Park Trust Fund; the sources for which come from a reduction in the Roosevelt Center Gymnasium Design Project in the amount of \$263,000; and several new collections eligible for this use obtained during 2005-2006 totaling \$1,107,000 that have not yet been allocated (and therefore are currently part of the Reserve: Future PDO/PIFO Projects).

## **POLICY ALTERNATIVES**

***Alternative 1:*** Reject the bids and re-bid the project.

**Pros:** Possibility of lower bid results.

**Cons:** Additional design costs and delaying the construction schedule.

**Reason for Not Recommending:** Current market reports affirm that construction escalation remains high and bids continue to be volatile, therefore staff does not recommend a re-bid for this project.

### **PUBLIC OUTREACH/INTEREST**

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

This item meets Criteria 1. Per Council policy, due to the size of this project, general contractors were required to submit a prequalification package for approval prior to being eligible to submit bids for construction. In June 2006, submittals were received, evaluated and determination notices were sent out to 13 qualified general contractors. To comply with City policy and to generate interest among subcontractors, 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.

In January 2004, Council approved an amendment to the Roosevelt Park Master Plan. The amendment builds upon previous planning efforts, notably the 1994 Roosevelt Park master plan and the 2002 Five Wounds/Brookwood Terrace Neighborhood Improvement Plan, developed as part of the Strong Neighborhoods Initiative. Staff worked and consulted with various community-based groups and neighborhood associations to develop the master plan, identify multiple capital projects at Roosevelt Park and establish project priorities.

In addition, community participation for the community center design effort through various community participation meetings was solicited through flyers posted at nearby public facilities and notices mailed to nearby residents. This memorandum will be posted on the City's Internet website for the December 5, 2006 Council agenda.

### **COORDINATION**

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, Environmental Services and General Services, the City Attorney's Office and Council District 3 Office.

**FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council approved Budget Strategy to continue with capital investments that spur construction spending in our local economy and with the Greenprint for Parks and Community Facilities and Programs.

**COST SUMMARY/IMPLICATIONS**

**1. COST OF PROJECT:**

Project Delivery – Package I & II	\$5,228,446
Land Acquisition	3,775,388
Construction – Package I + contingency	1,674,466
Construction – Package II	14,046,490
Contingency – Package II	702,325
<b>TOTAL PROJECT COSTS</b>	<b>\$25,427,115</b>
Prior Year Expenditures*	(\$7,419,203)
<b>REMAINING PROJECT COSTS</b>	<b>\$18,007,912</b>

\* This includes land acquisition expenditure in the amount of \$3,775,388.

**2. COST ELEMENTS OF CONSTRUCTION CONTRACT:**

This is a Lump Sum Contract.

**3. SOURCE OF FUNDING:** 471 - Parks and Recreation Bond Projects Fund

380 – Council District 3 Construction & Conveyance Tax Fund

375 – Subdivision Park Trust Fund

446 – Storm Sewer Operating Fund

**4. FISCAL IMPACT:** The annual impact to operate and maintain this facility is estimated to be \$489,000 after it opens in Summer 2008. This funding need will be addressed during the 2007-2008 Operating Budget process. If the operational date is delayed beyond June 2008 the item will be addressed during the 2008-2009 Operating Budget process.

**BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2006-2007 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs: \$18,007,912</b>				\$14,748,815		
<b>Current Funding Available</b>						
471	4789	Roosevelt Community Center – Multi-Service	\$15,136,000	\$13,560,000	Adopted Capital Budget, Page V - 787	10/17/06, Ord. No. 27888
380	4789	Roosevelt Community Center – Multi-Service	\$967,000	\$967,000	Adopted Capital Budget, Page V - 368	10/17/06, Ord. No. 27888

446	0762	Environmental Services Department: Non- Personal/Equipment	\$65,000*	\$65,000	Adopted Operating Budget, Page XI - 76	
<b>Total Current Funding Available</b>			<b>\$16,168,000</b>			

<b>Recommended Additional Funding**</b>						
375	5203	Roosevelt Center Gymnasium Design	\$263,000		Adopted Capital Budget, Page V - 675	
375	7845	Reserve: Future PDO/PIFO Projects	\$1,107,000		Adopted Capital Budget, Page V - 772	10/17/06, Ord. No. 27888
<b>Total Recommended Additional Funding</b>			<b>\$1,370,000</b>			
<b>Funding in future years of CIP***</b>			<b>\$ 470,000</b>			
<b>Total Funding for Project</b>			<b>\$18,008,000</b>			

\*The Non-Personal appropriation in the Storm Sewer Operating Fund totals \$2,153,639. Out of this amount, a total of \$65,000 has been allocated toward the DPW budget for construction of the storm water treatment.

\*\*This memorandum requests the following appropriation ordinance amendments: reduce the Roosevelt Center Gymnasium Design project by \$263,000 (appropriation totals \$1,200,000); and reduce the Reserve: Future PDO/PIFO Projects by \$1,107,000 (appropriation totals \$24,547,163).

\*\*\*Additional funding totaling \$470,000 is provided in 2007-2008 in the Parks and Recreation Bond Projects Fund

**CEQA**

CEQA: Mitigated Negative Declaration PP03-12-397.



KATY ALLEN  
Director  
Public Works Department



ALBERT BALAGSO  
Acting Director  
Parks, Recreation and Neighborhood  
Services Department



LARRY D. LISENBEE  
Budget Director

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, DEPARTMENT OF PUBLIC WORKS, at 408-535-8300.

Attachment  
KJ:dt:lm  
12\_5\_06#3roosevelt.doc

