

COUNCIL AGENDA: 08-03-04

ITEM: 5.3

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Katy Allen  
Sara L. Hensley

**SUBJECT:** SELMA OLINDER PARK PROJECT **DATE:** 07-14-04

Approved

Date

7/21/04

Council District: 3

SNI: Five Wounds/

Brookwood Terrace

## RECOMMENDATION

Report on bids and award of contract for the Selma Olinder Park Project to the low bidder, Galeb Paving, Inc., for the base bid and Add Alternate No. 1, in the amount of \$1,429,240, and approval of a contingency in the amount of \$143,000.

CEQA: Mitigated Negative Declaration, PP00-10-147, 9/7/01.

## BACKGROUND

The 12-acre Selma Olinder Park (formerly known as William Street Park East) is located on Woodborough Place and bordered by Olinder Elementary School to the north, Highway 280 to the south and Coyote Creek to the west. The proposed improvements include a 12-foot wide paved multi-use trail (part of the Coyote Creek Trail), decomposed granite pathways, concrete walkways, a softball field, picnic tables, restroom, shade structure, open turf and trees. There is one add alternate for construction of a tennis court.

Construction is scheduled to begin in September 2004 with completion in July 2005. The project includes the San Jose Conservation Corps performing some of the work necessary to construct the park pursuant to a separate agreement with the City. On June 29, 2004, Council adopted a resolution delegating authority to the City Manager to execute the agreement with the Conservation Corps.

On June 29, 2004, Council also adopted a resolution authorizing the City Manager to award the construction contract for Selma Olinder Park to the lowest responsive bidder. The delegation was subject to a number of conditions, including that there be no bid protest. Bidding issues arose as described below; therefore staff is recommending that this construction contract be awarded by Council.

The agreement between the City and the Conservation Corps must be executed before Council can award the construction agreement for the Selma Olinder Park Project. Accordingly, the

award of this contract will be deferred if the agreement between the City and Conservation Corps is not executed by the August 3, 2004 Council meeting.

**ANALYSIS**

In addition to the base bid scope of work, there is one Add Alternate bid item as follows:

<u>Description</u>	<u>Engineer's Estimate</u>
Add Alternate No. 1: Tennis Court	\$226,050

Bids were opened on July 1, 2004 with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Add. Alt. 1</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
<b>Engineer's Estimate</b>	<b>\$1,910,510</b>	<b>\$226,050</b>	<b>\$2,136,560</b>	---	---
Stevens Creek Quarry (Cupertino)	1,885,506	125,000	2,010,506	(25,004)	(1)
O.C. Jones & Sons, Inc. (Berkeley)	1,543,885	75,000	1,618,885	(366,625)	(19)
Robert A. Bothman, Inc. (San José)	1,474,481	142,705	1,617,186	(436,029)	(23)
Galeb Paving, Inc. (Saratoga)	1,361,700	67,540	1,429,240	(548,810)	(29)

The bid submitted by Galeb Paving, Inc. is 29 percent below the Engineer's Estimate. After evaluating Galeb's bid proposal, the Department of Public Works (DPW) initially determined that Galeb's bid was non-responsive because they failed to provide all required information on the Statement of Bidder's Experience form. Galeb provided the name of five projects and the entities for each project. However, they did not provide the contract amounts for any of the projects, instead making a notation on the form "on file w/City."

On July 8, Public Works faxed a notice to all bidders informing them of staff's recommendation to award the construction contract to Robert A. Bothman, the second low bidder. Galeb responded by questioning the appropriateness of that recommendation and informing DPW that it had completed the Statement of Bidder's Experience form similarly on previous projects the City had awarded. DPW subsequently confirmed that this assertion was correct with regard to one recent project. As a result of Galeb's response, DPW revisited its initial recommendation and determine that waiving the failure to include the "contract amounts" as a minor irregularity would be appropriate.

Considering all of the facts, DPW believes that Galeb's failure to provide the "contract amounts" is a minor irregularity that should be waived. Unlike the situation where a bidder provides no

information on the Statement of Bidder's Experience form, Galeb provided most of the requested information – merely omitting the contract amounts. This omission does not affect the amount of Galeb's bid or otherwise create a competitive advantage or benefit over the other bidders.

Moreover, although the City does not maintain an "experience file" on contractors, four of the five projects identified by Galeb are City projects. As a result, obtaining the "contract amounts" for these projects is relatively straightforward. Obtaining information regarding the City of Fremont project identified by Galeb would not be as straightforward. However, including the Fremont project was not necessary given that the Statement of Bidder's Experience form does not require a minimum number of projects.

In summary, staff recommends that Council waive Galeb's failure to provide the contract amounts as a minor irregularity and award the contract to Galeb. All bidders have been notified of staff's recommendation.

The project budget is sufficient to include the cost of the add alternate. Accordingly, staff is recommending that the add alternate be awarded as part of the project.

Council policy provides for a standard contingency of five percent on public works park projects; however, on this project, a contingency of ten percent is recommended because this is the first project of this nature the City has undertaken with the San Jose Conservation Corps and thus, there may be unforeseen circumstances which would necessitate additional work by the contractor. The funds budgeted for this project are sufficient to provide for the recommended contingency.

### **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 have been coordinated with the City Manager's Budget Office, City Attorney's Office and the Departments of Planning, Building and Code Enforcement and General Services.

### **COST IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: \$1,429,240

2. COST OF PROJECT:

Project Delivery	\$1,179,592
Construction	1,429,240
Agreement with SJCC allowance for materials and equipment rental	370,000
Payment to SJUSD for Playground Equipment	60,000 *
Contingency	<u>143,000</u>
<b>TOTAL</b>	<b>\$3,181,832</b>

\*A total of \$777,281 is estimated to be expended/encumbered from FY 1998-1999 through 2003-2004 for Project Delivery costs.

3. SOURCE OF FUNDING:

- 375 – Park Trust Fund
- 441 – Community Development Block Grant
- 465 – Construction Excise Tax Fund (Transportation Development Act, Article 3 (TDA3) grant funds)
- 471 – Parks and Recreation Bond Projects
- 380 – Council District 3 Construction and Conveyance Tax Funds

4. FISCAL IMPACT: This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy. This 12-acre park will require approximately \$138,000 in annual operating and maintenance costs. This project will be added to the list of properties maintained by the Department of General Services routine maintenance service division starting at the end of Fiscal Year 2004-2005. The provision of any additional funding for this improvement would be considered as part of the 2005-2006 annual budget process.

**BUDGET REFERENCE**

Fund #	Appn #	Appn Name	RC	Total Appn	Amt for Contract*	Proposed Budget Page	Last Budget Action (Date, Ord. No.)
471	4537	William Street Park Restroom	125285	\$213,000	\$213,000	Page V - 734	
380	4886	Selma Olinder Park		1,125,000	616,419	N/A	6/29/04, Ord. No. 27205
380	5943	Selma Olinder/Coyote Creek Trail		250,000	250,000	N/A	06/29/04, Ord. No 27202
441	4522	Selma-Olinder Park (Phase I)		213,000	213,000	N/A	06/29/04, Ord. No. 27206
465	4292	Bicycle and Pedestrian Facilities	118003	750,000*	136,821	Page V - 833	
450	6034	Selma Olinder Park		900,000		N/A	06/29/04, Ord. No. 27198
		<b>Total</b>		<b>\$2,701,000</b>	<b>\$1,429,240</b>		

HONORABLE MAYOR AND CITY COUNCIL

07-14-04

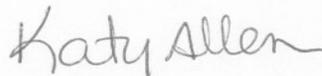
**Subject: Selma Olinder Park Project**

Page 5

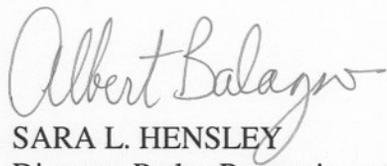
\*This appropriation is funded in large part by TDA3 grant funds and is allocated to support multiple projects. The total amount allocated for the Selma Olinder Park Project is \$170,000, of which \$33,179 was expended/encumbered in 2003-2004, leaving a remaining balance in 2004-2005 of \$136,821.

**CEQA**

Mitigated Negative Declaration, PP00-10-147, 9/7/01.

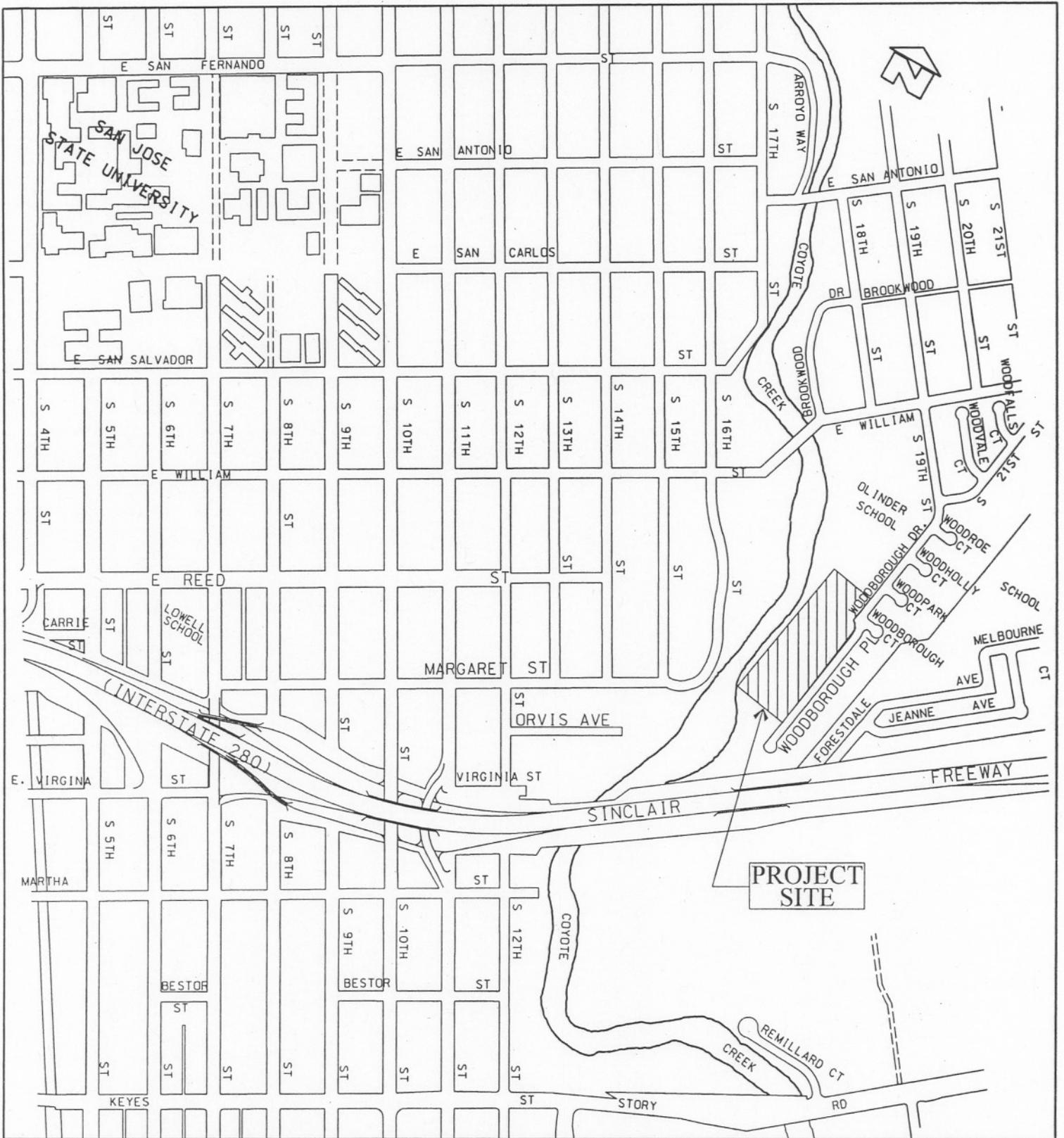


KATY ALLEN  
Director, Public Works Department

  
for

SARA L. HENSLEY  
Director, Parks, Recreation and  
Neighborhood Services Department

KJ:jp  
Selma Award.doc  
Attachment



**SELMA OLINDER PARK**  
 (WOODBOROUGH PLACE @ WOODBOROUGH COURT)

**LOCATION MAP**

NOT TO SCALE