



PUBLIC WORKS DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: June 4, 2024

Subject

Construction contract and a proposed amendment to the design consultant agreement and construction management services for the All-Inclusive Playground at Jollyman Park project.

Recommended Action

1. Award a construction contract for the All-Inclusive Playground at Jollyman Park Project (budget unit 420-99-051) in the amount of \$3,863,430 to QLM, Inc.;
2. Authorize the City Manager to execute the contract with QLM, Inc. when all conditions have been met;
3. Authorize the Director of Public Works to execute any necessary construction change orders with QLM, Inc., up to a contingency amount of \$386,350 (10%), for a total contract amount of \$4,249,780;
4. Authorize the City Manager to execute an amendment to the agreement with MIG, Inc. for Design Professional Services on the All-Inclusive Playground at Jollyman Park project (420-99-051, PO# 2022-0326) increasing the contract amount by \$45,000, for a new total not-to-exceed contract amount of \$467,411;
5. Authorize the City Manager to execute a professional services agreement with 4Leaf, Inc. for construction management services for a total not-to-exceed contract amount of \$393,081; and
6. Adopt Resolution No. 24-XXX approving budget modification #2324-304, approving a transfer out of \$500,000 from the Park Dedication Fund (280) and a transfer into the All-Inclusive Playground at Jollyman Park Project (budget unit 420-99-051) and appropriating \$500,000 to this project.

Reasons for Recommendation

Award Construction Contract (Recommended Actions #1-3)

The City of Cupertino advertised the construction scope of work for the All-Inclusive Playground (AIPG) at Jollyman Park Project (Project) on March 28. On April 25, the City received three bids, as detailed in the table below. All three base bids exceed the engineer's estimate by between 3 – 11%. The bid proposal required the bidders to submit costs for eight deductive alternates. The total base bid and the base bid less all eight bid alternates are listed.

Construction costs for Capital Improvement Program (CIP) projects have increased dramatically since the Project was initiated in 2019, and more recently since the coronavirus pandemic. The project team pre-emptively created a list of possible scope reductions in the bid documents in the form of deductive alternates, to address the possibility that the bids would come in higher than the construction estimate, and higher than the budget would allow.

Engineer's Estimate: \$3,950,000 (base bid scope)

Bidder	Base Bid Amount	Total Base Bid less all 8 Bid Alternate Deducts
QLM, Inc.	\$4,077,430	\$3,851,430
S&H Construction	\$4,268,600	\$4,023,600
Azul Works, Inc.	\$4,374,180	\$4,146,799

The bid instructions noted that the lowest bid will be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used to determine the lowest bid price. By using the above method, the lowest responsive and responsible bidder was QLM, Inc. While the above method was used to determine the lowest responsive bid, the City maintains the discretion to select the deductive alternates. In this case, the City selected one of these alternates to remain within the scope of work. This alternate was for tree procurement and planting, as staff believed the quoted price was very reasonable compared to estimates.

While the base bids are slightly higher than the Engineer's Estimate, the three bids are within a reasonable range of each other such that staff does not believe that rejecting all bids and initiating a new bid process would produce more favorable results.

The Department of Public Works reviewed QLM, Inc.'s bid documents for completeness, confirmed the contractor's experience and qualifications, and determined the bid to be the lowest responsive and responsible bid per the instructions to bidders and the Cupertino Municipal Code. Therefore, staff recommends awarding a construction contract to QLM, Inc. for a contract amount of \$3,863,430: this total represents the base bid amount and seven of the eight deductive alternates. Staff also recommends a 10% construction contingency be included in the amount of \$386,350, for a total contract amount of \$4,249,780. Construction contingency allows for unforeseen conditions and is a typical contracting best practice.

A draft construction contract is included as Attachment A, while the full contract documents can be found at <https://apps.cupertino.org/details/697>. Construction is expected to begin in July 2024 and be completed in April 2025.

Design Professional Services Agreement Amendment (Recommended Action #4)

The City Council awarded MIG, Inc. a contract on December 7, 2021, for design services including site analysis, community engagement, technical documentation, project management, and construction administration. The project has extended a year beyond the original agreement due to additional community engagement meetings and reviews, the permit review process, and staffing resource deficiencies. The scope of services has expanded to include additional services such as utility coordination and public art coordination. Staff recommends amending MIG's agreement to address the expansion of services noted above as well as the schedule extension.

Professional Services Agreement for Construction Management (Recommended Action #5)

Public Works solicited a Request for Qualifications (RFQ) in 2023 for construction management services. From that process, a list of pre-qualified firms was generated. Pre-qualified firms from that list were requested to provide scope and fee proposals for construction management services for this Project. Two firms, CSG and 4Leaf, submitted proposals. Staff reviewed and evaluated the proposals and recommended 4Leaf to be awarded a contract as the best-qualified proposer for this Project.

Budget Modification (Recommended Action #6)

The funding for this project was initiated in Fiscal Year (FY) 2019. Since that time, construction and professional services costs have increased significantly. The tables below outline the funding and expenditures, which supports the request for a project budget modification.

Project Funding	Amount
FY19 - City funding for All-Inclusive Playground at Jollyman Park Project (420-99-051)	\$1,230,000
Santa Clara County AIPG (external)	\$1,448,201
State of California Specified (external)	\$1,000,000
PG&E Donation (external)	\$25,000
FY23 - City funding for Adult-Assistive Restroom facility (420-99-051)	\$850,000
FY 24 – City funding from Art In-Lieu fees (specifically for Art procurement and installation	\$338,146
subtotal	\$4,891,347

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Current Expenses/Encumbrances	Amount
MIG, Inc.	(\$467,411)
BKF (Restroom & ADA scope of work)	(\$43,116)
Other consultants (environmental, feasibility, predesign)	(\$68,478)
PG&E (utility work and permit fee)	(\$41,459)
Other expenses (mailing costs during community outreach)	(\$17,730)
subtotal	(\$638,194)

Proposed Contracts & Agreements	Amount
QLM, Inc. Contract total including 10% contingency (<i>Recommended Actions #1-3</i>)	(\$4,249,780)
MIG, Inc. Agreement Amendment (<i>Recommended Action #4</i>)	(\$45,000)
4Leaf, Inc. Agreement (<i>Recommended Action #5</i>)	(\$393,081)
subtotal	(\$4,687,861)

Additional Expenses, Projected	Amount
Playground Inspections	(\$5,000)
Building Permit Fees	(\$8,500)
Misc. Equipment (picnic tables, bike racks, etc.)	(\$50,000)
subtotal	(\$63,500)

Summary - Funding Impact	Amount
Project Funding	\$4,891,347
Current Expenses/Encumbrances	(\$638,194)
Proposed Contracts & Agreements	(\$4,687,861)
Additional Expenses, Projected	(\$63,500)
subtotal	(\$498,208)

Budget Modification Requested	\$500,000
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Sustainability Impact

The project will implement bike racks to encourage alternative transportation. The project will install trio (recycling, organics, landfill) waste containers to divert materials from the landfill. The scope of work includes bioretention and has a stormwater mitigation plan (SWMP) to prevent infrastructure damage due to flooding. These features align with the City's Climate Action Plan 2.0 goals.

Fiscal Impact

The FY 2018-2019 Adopted Budget allocated \$1,230,000 for the AIPG at Jollyman Park Project (420-99-051). In FY 2021-2022, the scope and funding for the adult-assistive restroom was added to the project, for an additional \$850,000. In FY 2023-2024, funds

from Art In-Lieu fees of \$338,146 were dedicated to the project, for the specific use of procuring and installing art. The total City funding is presently \$2,418,146. If approved, the project funding (420-99-051) will increase by \$500,000 for a total of \$2,918,146, and the Park Dedication Fund (Fund 280) would decrease by \$500,000 bringing the estimated year-end fund balance to \$11.2 million.

California Environmental Quality Act (CEQA)

The project is categorically exempt from CEQA under CEQA Guidelines sections 15301(d) (maintenance or rehabilitation of existing facilities), 15301(e) (additions to existing structures), and 15304(b) (new landscaping including the replacement of existing conventional landscaping).

Prepared by: Susan Michael, Capital Improvement Programs Manager

Reviewed by: Chad Mosley, Director of Public Works

Reviewed by: Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Contract – QLM, Inc.

B – Draft Agreement Amendment – MIG, Inc.

C – Draft Agreement – 4Leaf, Inc.

D – Draft Resolution