

REPORT OF GENERAL MANAGER

**APPROVED**

NO. 14-003

DATE January 8, 2014

**JAN 22 2014**  
**BOARD OF RECREATION**  
**AND PARK COMMISSIONERS**

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: WESTCHESTER TENNIS PROFESSIONAL CONCESSION - AWARD OF CONCESSION AGREEMENT TO HAI NGUYEN DBA THE TENNIS KEY, A SOLE PROPRIETORSHIP

R. Adams \_\_\_\_\_  
R. Barajas \_\_\_\_\_  
H. Fujita \_\_\_\_\_

V. Israel \_\_\_\_\_  
K. Regan \_\_\_\_\_  
\*N. Williams ALW

  
\_\_\_\_\_  
General Manager

Approved                     

Disapproved                     

Withdrawn                     

RECOMMENDATIONS:

That the Board:

1. Award the Westchester Tennis Professional Concession (Concession) to Hai Nguyen, dba The Tennis Key, a sole proprietorship (The Tennis Key), for the operation and maintenance of the Concession;
2. Find, in accordance with Charter Section 1022, that the Department does not have sufficient personnel available in its employ to undertake these specialized professional services and that it is more feasible and economical to secure these services by contract;
3. Find, in accordance with Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department for the improvement, operation and maintenance of the Department's concession.
4. Find that, in order to select the best proposer for this concession, it is necessary to utilize a standard request for proposals process and to evaluate proposals received based upon the criteria included in the Request for Proposals (RFP).

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5. Find that the narrower and more specialized competitive sealed proposal process authorized but not required by Charter Section 371, subsection (b), would not meet the Department's needs and therefore opt to utilize the standard request for proposals process;
6. Approve a proposed revised five (5) year Concession Agreement, with two (2) five (5) year renewal options exercisable at the General Manager's sole discretion, substantially in the form on file in the Board Office, subject to approval of the Mayor, City Council, and the City Attorney as to form;
7. Direct the Board Secretary to transmit the Agreement to the Mayor in accordance with Executive Directive No. 3 and, concurrently, to the City Attorney for review and approval as to form; and,
8. Authorize the Board President and Secretary to execute the Agreement upon receipt of the necessary approvals.

### SUMMARY:

The Concession is located at the Westchester Recreation Center, 7000 West Manchester, Los Angeles, CA 90045. The Recreation Center offers a variety of sports activities, including baseball, basketball, swimming, soccer, volleyball, and recreation programs such as an after school camp, arts and crafts, and skateboarding.

There are eight lighted tennis courts and a small pro shop that stocks tennis related merchandise and snacks and drinks. The tennis professional conducts lessons on two of the courts with the remaining six set aside for pay tennis operations and/or free play by the public during specified hours. The current concessionaire presently operates the pay tennis reservation system, but this component will be taken over by the Department after the new contract has been executed.

The Concession has been operated by Hai Nguyen dba The Tennis Key since 2002 and most recently through Concession Agreement No. 3259, which expired on September 16, 2011, and has been operated since then by Mr. Nguyen on a month to month basis. The Concession offers a number of tennis programs including private lessons, adult clinics, and junior programs. In 2012, the Concession generated \$214,036.30 in gross receipts and paid \$18,303.05 in rent to the Department, which included revenue generated from the pay tennis operation.

On February 2, 2011, the Board of Recreation and Park Commissioners (Board) approved the release of the Request for Proposals (RFP) for the Operation and Maintenance of the Concession (Board Report No. 11-035). The RFP was released on February 23, 2011. The RFP was advertised in the Daily Journal; posted on the Los Angeles Business Assistance Virtual Network

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(BAVN); and posted on the Department's website. A letter inviting bids was mailed to over 250 organizations and individuals from a mailing list maintained by the Concessions Unit.

On April 13, 2011, a Pre-Proposal Conference was held in the main Conference Room of the Administration Building at the Central Services Yard. The conference was attended by thirteen interested business entities. A walk-through of the Concession premises was conducted on April 19, 2011.

On June 2, 2011, the RFP Questions and Answers document regarding the Concession was posted on-line.

On June 10, 2011, Addendum No. 1 to the RFP was posted on-line. The Addendum added Exhibit B-2 to the RFP, which detailed instructions to the prospective proposers regarding compliance with Los Angeles Administrative Code Sections 10.44 et seq., First Source Hiring Ordinance.

On June 28, 2011 the following proposals were received:

- The Tennis Key
- Z Management

As stipulated in the RFP, evaluation of the bid proposals was to occur in two levels. Level I was a check and review for required compliance and submittal documents; Level II was a comprehensive evaluation of the proposals by a panel comprised of City employees. Proposers had to successfully pass Level I to proceed to Level II.

Staff performed a Level I review of the following required documents:

### Compliance Documents:

- 1) Proposer's Signature Declaration and Affidavit
- 2) Disposition of Proposals
- 3) Affirmative Action Plan
- 4) Contractor Responsibility Ordinance Statement
- 5) Equal Benefits Ordinance Statement
- 6) Living Wage Ordinance/Service Contractor Worker Retention Ordinance
- 7) Good Faith Effort Subcontractor Outreach
- 8) CEC Form 50 (Municipal Lobbying Ordinance/Bidder Certification)

### Submittal Documents:

- a. Cover Letter
- b. Proposal Deposit

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- c. Ability to Finance
- d. Background and Experience
- e. Proposed Business Plan For This Concession
- f. Proposed Revenue Sharing Fee and Payment to City
- g. On-Going Refurbishment, Improvements, and Maintenance
- h. Concession Improvements (Optional)

Proposals are either Responsive (pass) or Non-Responsive (fail). The following is a summary of Level I findings:

### Preliminary Level I Findings

- The Tennis Key was found Responsive in all eight compliance documents and Responsive in all eight submittal documents (Attachment A-1).
- Z Management was found Non-Responsive in one of eight compliance documents and Responsive in all eight submittal documents (Attachment A-2). Therefore, the entire proposal was deemed Non-Responsive.

### Full Level I Findings

Prior to consulting with the Bureau of Contract Administration (BCA) and the City Attorney, the original Level I findings were as follows:

A. Z Management was originally found Non-Responsive in the following category:

#### Compliance Documents:

- Did not submit Pages 2 and 3 of the Equal Benefits Compliance Form.

Upon consulting with the City Attorney during a conference call on September 13, 2012 it was determined that Section IV.A of the RFP, which states, "The City may deem a proposer non-responsive if the proposer fails to provide all required documentation and copies," gives the Department room to make a determination about waiving informalities because of the use of the word "may" instead of "shall" or "must."

Staff with BCA stated that the Equal Benefits Ordinance Compliance Form could be submitted following the RFP proposal submittal deadline provided it is received and verified prior to the award of the contract.

Therefore, according to the City Attorney, certain items deemed "Non-Responsive" could be waived as follows:

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- Pages 2 and 3 of the Equal Benefits Compliance Form can be completed at any time prior to contract award, as verified by discussion with BCA;
- Subject to Board approval of the waiving of informalities of the non-submission of Pages 2 and 3 of the Equal Benefits Compliance Form and the waiving of informalities found in the subsequent submission of Pages 2 and 3 of the Equal Benefits Compliance Form.

A letter dated October 4, 2012 (Attachment A-3) was sent to Z Management informing them that due to the incomplete submittal of a contract compliance document required by the RFP, they were found to be non-responsive at the RFP Level I evaluation phase. Z Management was further informed that, "At this point of the review process you may elect to submit a complete set of the Equal Benefits Ordinance Compliance Form that was not found in your submitted proposal."

Subsequently, staff verified that Z Management submitted a completed Equal Benefits Ordinance Compliance Form on-line (Attachment A-4) at the City of Los Angeles Business Assistance Virtual Network (BAVN), completing Level I requirements and allowing Z Management to advance to the Level II evaluation phase.

### Level II – Panel Evaluation

The evaluation panel was assembled from City of Los Angeles staff with various backgrounds. The panel consisted of:

- Kelly Werling, Senior Recreation Director II, Recreation and Parks
- Joe Salaices, Park Services Supervisor, Recreation and Parks
- Lillian Sedlak, Senior Management Analyst II, Office of the Controller

Mr. Werling has been the facility director of the forty (40) acre campus at the Cheviot Hills Recreation Center for over ten years. The Cheviot Hills Recreation Center is one of the Department's premiere facilities. Mr. Werling is responsible for operating one of the largest youth and adult sports leagues, day camps and reservation programs in the Department and has served on previous proposal evaluation panels for the Department.

Mr. Salaices has over thirty years of experience as an employee of the Department and is the Division Head of the Park Services Unit. He is responsible for the direct oversight of several City-owned entrepreneurial public service operations that include rental halls, pay tennis courts, the Travel Town Museum, and the Sherman Oaks Castle Park.

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Ms. Sedlak has almost fifteen years of experience with the Office of the Controller with the City of Los Angeles. She is the supervisor for the Cost Allocation Plan (CAP) Section. The CAP Section is responsible for preparing the City's annual Cost Allocation Plan in accordance with Federal regulations.

On April 23, 2013, the evaluation panel held proposer interviews. The interviews were intended to provide clarification of the proposals; modifications and/or enhancements of the proposals submitted were not permitted, as stated in the RFP.

The panel reviewed the proposals and the information gathered during the interviews, and was charged with ranking and scoring the proposals in accordance with the RFP, then submitting the information to the RFP Administrator, along with a short summary indicating which proposer was recommended for award and why (Attachment B).

### Score and Rank

Z Management was unanimously ranked highest in four criteria: Ability to Finance; Proposed Business Plan For This Concession; Proposed Revenue Sharing Fee and Payment to City; and, On-Going Refurbishment, Improvements, and Maintenance. The evaluation panel's final general average score and ranking are as follows:

<u>Proposer</u>	<u>Final Average Score</u>	<u>Rank</u>
Z Management	97.7	1
The Tennis Key	92.0	2

Z Management had the highest ranking and score (Attachment C), and was therefore recommended by the evaluation panel as the preferred operator for the Concession. The panel reported that while Z Management's financial projections appeared optimistic, given the strong business and marketing plans, assembled Concession team and name recognition of the principal in the tennis world, the projections were deemed feasible.

### Ability to Finance

All three panelists unanimously ranked Z Management "1" in this category. Both proposers were deemed financially able by the panel to provide operational and other costs related to the Concession. However, the panelists rated Z Management's cash reserves as "stronger" than that of The Tennis Key, as the principal personally holds a substantial amount of the cash reserves.

All three panelists unanimously ranked The Tennis Key "2" in this category concluding that although The Tennis Key had "adequate" cash reserves, they were held by an individual other than the proposer.

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### Background and Experience

All three panelists unanimously ranked The Tennis Key “1” in this category. The panelists noted that the proposer was the incumbent tennis concessionaire and had operated the business at the location for many years.

All three panelists unanimously ranked Z Management “2” in this category. The panelists felt that Z Management did not have as strong a business background as The Tennis Key although the panelists noted that a member of Z Management’s operations team was an experienced business person.

### Proposed Business Plan For This Concession

All three panelists unanimously ranked Z Management “1” in this category. The panelists were impressed with the proposer’s marketing and advertising plan and the offering of innovative tennis programs. In addition, the panelists were impressed with the proposer’s ability to capitalize on his international professional tennis ranking and his ability to secure tennis instructors with strong credentials.

All three panelists unanimously ranked The Tennis Key “2” in this category. The panelists concluded that the incumbent’s marketing plan was generally structured towards reaching existing clientele.

### Proposed Revenue-Sharing Fee and Payment to City

All three panelists unanimously ranked Z Management “1” in this category. While the panelists felt Z Management’s projected revenue in the pro forma submitted with the proposal was optimistic, with Z Management’s aggressive marketing and advertising plans and strong concession team and name recognition, the financial projections could be achievable.

All three panelists unanimously ranked The Tennis Key “2” in this category. The panelists reviewed the projections in the pro forma submitted by The Tennis Key with the proposal and noted that the income projections basically forecast the existing revenue stream.

### On-Going Refurbishment, Improvements, and Maintenance

All three panelists unanimously ranked Z Management “1” in this category. The panelists cited a “strong” and “solid” plan describing Z Management’s approach to on-going refurbishment, improvements and maintenance. Z Management proposed contracting with a janitorial contractor for the life of the contract.

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All three panelists unanimously ranked The Tennis Key “2” in this category. One panelist noted that The Tennis Key only budgeted \$1,000 for on-going refurbishment, improvements and maintenance.

### Concession Improvements

Two of three panelists ranked Z Management “1” in this category. The two panelists found the proposed improvements by Z Management, including a renovated patio area, to be more encompassing than that proposed by The Tennis Key.

Two of three panelists ranked The Tennis Key “2” in this category. The third panelist ranked The Tennis Key “1” for Concession improvements due to the proposal of a new mobile tennis office with interior bathrooms, a major improvement over the port-a-potties at the present location.

### Proposed Concession Agreement Contract Language Issues

During a review of a similar Proposed Concession Agreement by the office of the City Administrative Officer (CAO), a contract language issue was discovered and discussed with the City Attorney. The City Attorney recommended as follows:

- 1) Section 6.F (“Annual Accounting Adjustment”) found in the Sample Proposed Agreement approved by the Board on February 2, 2011 contains language that is inconsistent with contract language in Section V.A.4 (“Proposed Revenue Sharing Payment”) of the RFP regarding minimum annual revenue sharing payments.

The City Attorney recommended the elimination of Section 6.F (“Annual Accounting Adjustment”) of the Proposed Agreement.

Section 6.F (“Annual Accounting Adjustment”) states:

“At the end of each twelve (12) month period during the term hereof, Concessionaire shall prepare and submit to City a statement showing the total gross receipts for the said twelve (12) month period and the revenue sharing payments paid for the said twelve (12) months. If the sums paid by Concessionaire during the period exceed the minimum annual fees as well as the annual percentage charges computed as set forth in this Section, whichever is greater, such overpayment shall be credited to the revenue sharing payment thereafter due from Concessionaire.



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Any breach of this condition for the revenue sharing fee and payment shall be a material breach of this Concession Agreement.”

Section V.A.4 (“Proposed Revenue Sharing Payment”) of the RFP states:

“The minimum annual revenue sharing payment for this concession per calendar year will be set by the revenue sharing payments specified by the proposer in the Pro Forma section of the selected proposal. If the minimum annual revenue sharing payment is not met by December 31 of each calendar year, the difference between the actual revenue sharing payments received by the City of Los Angeles and the minimum annual revenue sharing payment for the preceding year will be due to the City of Los Angeles by January 15 for the preceding year, pro-rated as necessary of the first year of operation, or fractional part thereof.”

The revised Proposed Agreement incorporates the City Attorney recommended contract language change to Section 6 (“Revenue Sharing Fee and Payment”) of the Proposed Agreement.

### Z Management’s Withdrawal of Proposal

In early summer of 2013, the Department was in the process of notifying Z Management concerning the contract language change and preparing a Board Report to recommend award of this concession. On August 18, 2013 the Department received email correspondence from Z Management requesting the withdrawal of their proposal from the RFP process due to a change in their business direction.

The remaining proposer and current incumbent, The Tennis Key, was ranked No. 1 in the RFP evaluation criteria category of “Background and Experience” and was ranked No. 2 in the RFP evaluation criteria categories of “Ability to Finance”, “Proposed Business Plan For This Concession”, “Proposed Revenue Sharing Fee and Payment to City”, “On-Going Refurbishment, Improvements, and Maintenance”, and “Concession Improvements.” The Tennis Key was confirmed as capable by the evaluation panel.

### Proposer Issues

#### Outstanding Rent, Occupancy Taxes and Late Fees

A review of Department correspondence and contractual financial records indicate outstanding rent, occupancy taxes and late fees issues with the incumbent for the calendar years 2012 and 2013. The Department notified The Tennis Key through two written letters concerning outstanding calendar year 2012 rent, from which the Department had not received a written

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response or payment on the principal owed. In addition, the review found outstanding fees for late rent and occupancy taxes for various periods during calendar years 2012 and 2013.

A December 10, 2013 letter from the Department to The Tennis Key addressed all outstanding rent and late fees issues for 2012 and 2013, as well as, outstanding occupancy taxes and fees for late occupancy taxes for 2012 and 2013. The letter instructed The Tennis Key to provide full payment of the outstanding rent, occupancy taxes and late fees for 2012 and 2013 in the amount of \$3,557.71 by January 7, 2014. On December 29, 2013, The Tennis Key submitted payment of \$3,557.71 to the Department's bank account. On December 31, 2013, the amount of \$3,557.71 was credited to the Department's bank account.

### Contract Language Issue

The Department formally notified The Tennis Key (Proposer) via phone conversation on December 20, 2013 and via written correspondence dated December 30, 2013 about the need for the contract language change to Section 6 ("Revenue Sharing Fee and Payment") incorporated in the revised Proposed Agreement and requested The Tennis Key to submit a signed statement to the Department by 5:00 p.m. on Monday, January 6, 2014, indicating acceptance of the revised terms and conditions as indicated in the letter. The Tennis Key has submitted the requested signed statement.

### Additional Board Activity

On November 20, 2013 the Board considered Board Report No. 13-300 "WESTCHESTER TENNIS PROFESSIONAL CONCESSION REQUEST FOR PROPOSALS (RFP) – RESCISSION OF RFP AND RETURN OF PROPOSAL DEPOSITS." In considering the four (4) Recommendations, the Board only approved item No. 2: "Direct staff to return proposal deposits to all proposers." Three (3) of the four (4) recommendations were held. Staff processed the proposal deposit refund checks and the refund checks were issued by the Controller's Office on December 10, 2013. The Department requests to withdraw the three (3) remaining recommendations on Board Report No. 13-300. If the Board approves this Board Report, Board Report No. 13-300, Recommendation No. 1: "Rescind the Request for Proposals (RFP) for the Westchester Tennis Pro Professional Concession (Concession) approved by the Board on February 2, 2011 (Board Report No. 11-035), and released on February 23, 2011" is moot.

A Board Report scheduled for consideration on December 11, 2013, No. 13-324 "WESTCHESTER TENNIS PROFESSIONAL REQUEST FOR PROPOSALS (RFP) – CONDITIONAL AWARD OF CONCESSION AGREEMENT TO THE TENNIS KEY" was held as Unfinished Business in order to allow The Tennis Key to comply with outstanding issues identified in a December 10, 2013 letter to the concessionaire. An Informational Board Report titled "WESTCHESTER TENNIS PROFESSIONAL CONCESSION – OUTSTANDING

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RENT, OCCUPANCY TAXES AND LATE FEES ISSUES WITH CURRENT CONCESSIONAIRE, THE TENNIS KEY” was submitted at the December 11, 2013 Board Meeting to update the Board on this concession. The Informational Board Report was in regard to outstanding rent payments, occupancy taxes and late fees owed by the incumbent concessionaire, The Tennis Key. As discussed above, The Tennis Key has satisfied the outstanding issues.

Board Report No. 13-324 was subsequently withdrawn at the January 8, 2014 Board Meeting because The Tennis Key complied with the outstanding issues addressed in the Department’s letters dated December 10, 2013 and December 30, 2013. As all outstanding issues have been satisfied, staff recommends that the Westchester Tennis Professional Concession Agreement award be made to Hai Nguyen, dba The Tennis Key, a sole proprietorship.

### Charter Section 1022

Los Angeles City Charter Section 1022 prohibits contracting out work that could be done by City employees unless the Board determines it is more economical and/or feasible to contract out the service.

On December 3, 2010, the Personnel Department completed a Charter Section 1022 review and determined that the Department had City classifications which met some of the minimum qualifications to provide tennis concession management (Attachment D). However, the ability to provide tennis lessons and manage a tennis program on a day-to-day basis requires expertise that City classifications are unable to provide.

Also, the tennis instructors are required to hold certifications from the United States Professional Tennis Association. Compensation at the rate of the City classifications would make it extremely difficult to find and retain qualified instructors; it is therefore more feasible to contract out the service to ensure a sufficient level of instruction to meet the needs of the public.

### FISCAL IMPACT STATEMENT:

Based on financial projections (Attachment E) it is projected that during the five-year term of the Concession agreement, approximately \$83,900 will be paid in rent to the Department. Of that amount, 90% (approximately \$75,510) will be deposited in the Department’s General Fund and 10% (approximately \$8,390) will be deposited into the Concession Improvement Account. The contractor will provide any approved optional concession improvements at the contractor’s expense.

Report prepared by Mark Stipanovich, Management Analyst II, Concessions Unit, Finance Division.

**THE TENNIS KEY  
WESTCHESTER TENNIS PROFESSIONAL RFP  
LEVEL I EVALUATION**

I. Compliance Documents		Submitted	In Compliance	Comments
1.	Affidavit of Non-Collusion	Yes	Yes	
2.	Disposition of Proposals	Yes	Yes	
3.	Affirmative Action Plan	Yes	Yes	
4.	Contractor Responsibility Questionnaire	Yes	Yes	
5.	Equal Benefits Ordinance Statement	Yes	Yes	
6.	Living Wage/Service Contract Worker Retention Ordinance Forms	N/A	N/A	Proposer will have no employees under the contract. No request for exemption submitted.
7.	Good Faith Effort Outreach	Yes	Yes	Scored 100 points; 75 is passing.
8.	CEC Form 50	Yes	Yes	

II. Proposal Items		Submitted	In Compliance	Comments
1.	Cover Letter	Yes	Yes	
2.	Proposal Deposit	Yes	Yes	
3.	Ability to Finance	Yes	Yes	Proposer (Incumbent) submitted business checking account bank statements showing monthly balances of approximately \$4,000. Proposer stated that present inventory exists in the pro shop and there is a \$4,000 performance deposit under the current agreement on deposit with the City. Proposer stated that he has access to additional funds if necessary for the start-up of the new contract and has provided a letter from the individual.
4.	Background Experience	Yes	Yes	Proposer (Incumbent) has been providing tennis lesson and pro shop services at the Westchester location since 2002.
5.	Business Plan	Yes	Yes	Proposer (Incumbent) wants to add skateboard accessories at the pro shop in connection with the adjacent skate park. Proposer will continue private and group lessons, camps, clinics and teams as under current concession agreement and plans marketing outreach via social media and contacting local schools and businesses.
6.	Proposed Rental Percentage	Yes	Yes	10% for lesson services; 12% for pro shop services
7.	On-Going Refurbishment, Improvements, and Maintenance	Yes	Yes	Proposed daily and on-going maintenance program.
8.	Concession Improvements	Yes	Yes	Proposed installing a new mobile office trailer which will provide needed bathroom facilities and has offered to house the City's Pay Tennis operation.

**Z MANAGEMENT  
WESTCHESTER TENNIS PROFESSIONAL RFP  
LEVEL I EVALUATION**

I. Compliance Documents		Submitted	In Compliance	Comments
1.	Affidavit of Non-Collusion	Yes	Yes	
2.	Disposition of Proposals	Yes	Yes	
3.	Affirmative Action Plan	Yes	Yes	
4.	Contractor Responsibility Questionnaire	Yes	Yes	
5.	Equal Benefits Ordinance Statement	Yes	No	Proposer was allowed to submit completed EBO forms after the RFP proposal due date of June 28, 2011. Subject to Board waiver of Informalities.
6.	Living Wage/Service Contract Worker Retention Ordinance Forms	N/A	N/A	No requests for exemption submitted.
7.	Good Faith Effort Outreach	Yes	Yes	Scored 91 total points. 75 points is passing.
8.	CEC Form 50	Yes	Yes	

II. Proposal Items		Submitted	In Compliance	Comments
1.	Cover Letter	Yes	Yes	
2.	Proposal Deposit	Yes	Yes	
3.	Ability to Finance	Yes	Yes	Proposer submitted bank statements indicating an average balance of \$150,000 which demonstrates adequate funds for start-up costs, purchasing inventory and funding improvements to facility. Proposer didn't establish clear access to other assets as claimed, e.g. retirement accounts are in proposer's father's name with no statement how proposer would have access to them.
4.	Background Experience	Yes	Yes	Proposer did not demonstrate actual experience operating a tennis pro shop. Proposer cited his experience working at a sporting goods store for the past six years in addition to operating a professional tennis service that offers tennis lessons and sells tennis merchandise and related services. Proposer stated that he has helped manage pro shops, but didn't cite specific stores. Proposer stated that he has worked at the Westwood and Westchester Tennis Concessions.
5.	Business Plan	Yes	Yes	Proposes private, group lessons, junior and low income programs, other innovative tennis services; proposes a membership group; will recycle tennis balls, etc. Has in-depth marketing plan, utilizing various media.
6.	Proposed Revenue Sharing Payment	Yes	Yes	11% for lesson services; 13% for pro shop business
7.	On-Going Refurbishment, Improvements, and Maintenance	Yes	Yes	Proposes an on-going maintenance and improvements program.
8.	Concession Improvements	Yes	Yes	Proposes to build a new patio area, new garden area, and add new windscreens and benches.

BOARD OF RECREATION AND  
PARK COMMISSIONERS

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JILL T. WERNER  
JOHNATHAN WILLIAMS

CITY OF LOS ANGELES  
CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

Attachment A-3  
DEPARTMENT OF  
RECREATION AND PARKS

221 NORTH FIGUEROA STREET  
15TH FLOOR, SUITE 1550  
LOS ANGELES, CA 90012

(213) 202-2633

FAX (213) 202-2614

JON KIRK MUKRI  
GENERAL MANAGER

October 4, 2012

Mr. Zack Fleishman  
Z Management

**REQUEST FOR PROPOSALS FOR THE OPERATION OF THE WESTCHESTER  
TENNIS PROFESSIONAL CONCESSION (ARS-T11-02)**

Dear Mr. Fleishman:

Thank you for submitting a proposal in response to the Request For Proposals (RFP) for the Operation of the Westchester Tennis Professional Concession.

According to Section VI ("Evaluation and Award") of the RFP, each proposer is required to pass evaluation Level I prior to moving on to evaluation Level II. Department staff has completed the evaluation Level I review and found your proposal non-responsive at the Level I evaluation phase due to an omission on your part concerning the submittal of a contract compliance document required by the RFP:

- Section I.E of Exhibit B ("Equal Benefits Ordinance Statement") of the RFP states: "All proposers must complete the Equal Benefits Ordinance Compliance Form (Pages 1 through 3) and submit with the proposal."

The submitted proposal only contained page 1 of the Equal Benefits Ordinance Compliance Form. Page 1 was incomplete and pages 2 and 3 were not submitted.

At this point of the review process you may elect to submit a complete set of the Equal Benefits Ordinance Compliance Form that was not found in your submitted proposal. If you decide to do so, please go on-line to the City of Los Angeles Business Assistance Virtual Network (BAVN), located at [www.labavn.org](http://www.labavn.org), complete the Equal Benefits Ordinance Compliance Form and submit.

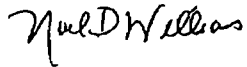
If Z Management is recommended for contract award, the Board of Recreation and Park Commissioners will make a determination at the award phase of the RFP process regarding a waiver of RFP informalities and the acceptance of your late submittal of the complete Equal Benefits Ordinance Compliance Form.



Mr. Zack Fleishman  
October 4, 2012  
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If you have any questions or require additional information regarding the above, please contact Mark Stipanovich, of the Concessions Unit, at (213) 202-4304.

Sincerely,



NOEL D. WILLIAMS  
Chief Management Analyst

NDW:CJ:ms

cc: Carol Jacobsen, Senior Management Analyst I  
Mark Stipanovich, Management Analyst II

## Z Management

Company Information	
ID	58614
Name:	Z Management
Address:	[REDACTED]

File Name	Date Uploaded	Status	Date Verified	EEOE Verification
<b>Affirmative Action</b>				
Not Uploaded				
<b>Equal Benefits Ordinance</b>				
Equal Benefits Ordinance Compliance Form	10/09/2012	Unverified		
<b>First Source Hiring Ordinance</b>				
Not Uploaded				
<b>Non-discrimination/Equal Employment Practices Provisions</b>				
Not Uploaded				
<b>Slavery Disclosure Ordinance</b>				
Not Uploaded				
<b>Slavery Disclosure Ordinance (Indefinite Application)</b>				
Not Uploaded				

LA BAVN is NOT responsible for the timeliness or accuracy of this data. If in doubt, please contact the opportunity's agency of record for additional information.  
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EBO COMPLIANCE

City of Los Angeles  
Department of Public Works  
Bureau of Contract Administration  
Office of Contract Compliance  
1149 S. Broadway, Suite 300, Los Angeles, CA 90015  
Phone: (213) 817-2625 E-mail: [bca.eco@cityofla.org](mailto:bca.eco@cityofla.org)

EQUAL BENEFITS ORDINANCE COMPLIANCE AFFIDAVIT

Prime contractors must certify compliance with Los Angeles Administrative Code (LAAC) Section 10.8.2.1 et seq. prior to the execution of a City agreement subject to the Equal Benefits Ordinance (EBO).

SECTION 1. CONTACT INFORMATION

Company Name: Z Management IIAVN Company ID # 58614

Company Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: Zack Fleishman Phone: 310-426-2426 E-mail: Zack@ZManagementSports.com

Approximate Number of Employees in the United States: 0

Approximate Number of Employees in the City of Los Angeles: 0

SECTION 2. EBO REQUIREMENTS

The EBO requires City Contractors who provide benefits to employees with spouses to provide the same benefits to employees with domestic partners. Domestic Partner means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration, or with an internal registry maintained by the employer of at least one of the domestic partners.

Unless otherwise exempt, the contractor is subject to and shall comply with the EBO as follows:

- A. The contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the City Contract; and
- B. The contractor's operations located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the contractor's presence at or on the property is connected to a Contract with the City; and
- C. The Contractor's employees located elsewhere in the United States, but outside of the City Limits, if those employees are performing work on the City Contract.

A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners."

EBO COMPLIANCE

SECTION 3. COMPLIANCE OPTIONS

I have read and understand the provisions of the Equal Benefits Ordinance and have determined that this company will comply as indicated below:

- I have no employees.
I provide no benefits.
I provide benefits to employees only.
I provide equal benefits as required by the City of Los Angeles EBO.
I provide employees with a "Cash Equivalent."
All or some employees are covered by a collective bargaining agreement (CBA) or union trust fund.
Health benefits currently provided do not comply with the EBO.
Our current company policies, i.e., family leave, bereavement leave, etc., do not comply with the provisions of the EBO.

SECTION 4. DECLARATION UNDER PENALTY OF PERJURY

I understand that I am required to permit the City of Los Angeles access to and upon request, must provide certified copies of all company records pertaining to benefits, policies and practices for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance. Furthermore, I understand that failure to comply with LAAC Section 10.8.2.1 et seq., Equal Benefits Ordinance may be deemed a material breach of any City contract by the Awarding Authority.

Z Management will comply with the Equal Benefits Ordinance requirements as indicated above prior to executing a contract with the City of Los Angeles and will comply for the entire duration of the contract(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 17th day of October, in the year 2012, at Los Angeles, CA
Signature: Zack Freshman, President
Mailing Address: [Redacted]
City, State, Zip Code: [Redacted]

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

Date: May 1, 2013

To: Department of Recreation and Parks  
Finance Division – Concessions Unit

Attn: Mark Stipanovich, Concession Analyst

From: Joe Salaices, Park Services Supervisor, Recreation and Parks  
Kelly Werling, Senior Recreation Director II, Recreation and Parks  
Lillian Sedlak, Senior Management Analyst II, Office of the Controller

Subject: WESTCHESTER TENNIS PROFESSIONAL CONCESSION – PANEL  
EVALUATION AND RECOMMENDATION

The Westchester Tennis Professional Concession is located on the grounds of the Westchester Recreation Center, 7000 W. Manchester Blvd., Los Angeles, CA 90045.

On April 23, 2013 a panel consisting of City staff conducted interviews for the operation and maintenance of the Westchester Tennis Professional Concession. Upon completion of the interviews, the panel scored and ranked each of the proposals based on the goals and criteria detailed in the Request for Proposals. The following table reflects the final score by each panel member for each of the proposals:

	The Tennis Key	Z Management
Joe Salaices	94	99
Kelly Werling	92	96
Lillian Sedlak	90	98

Based on the scoring of the proposals, the panel recommends award of the Westchester Tennis Professional Concession to Z Management. The recommended proposal was the highest evaluated proposal by all panel members.

Please let me know if you have questions or need further assistance. On behalf of the panel, I would like to thank you for the opportunity to participate in the Request for Proposals process for the Westchester Tennis Professional Concession.

Sincerely,



Joe Salaices

DEPARTMENT OF RECREATION AND PARKS  
 REQUEST FOR PROPOSALS  
 FOR THE OPERATION OF THE  
 WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
 RANKING AND SCORING SHEET

THE TENNIS KEY	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	14	2	Adequate financial support; however, less support than Z managem
Background and Experience	25	25	1	Good background experience. Current vendor at location
Proposed Business Plan For This Concession	15	13	2	Nothing very compelling. Status quo on services
Proposed Revenue Sharing Fee and Payment to City	25	24	2	Reasonable revenue sharing, but lower than competitor
On-Going Refurbishment, Improvements, and Maintenance	10	9	2	limited investment with owner do it yourself maintenance
Concession Improvements	10	9	2	New rental module but nothing permanent
<b>TOTAL SCORE and OVERALL RANK</b>	<b>100</b>	<b>94</b>	<b>2</b>	

Z MANAGEMENT	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	15	1	High level of financial support, father/bus. partner financial support
Background and Experience	25	24	2	No business experience running pro shop, however partner has exp. in recreation and operating a business
Proposed Business Plan For This Concession	15	15	1	Offers unique programming to various types of players and age groups, well connected in tennis industry
Proposed Revenue Sharing Fee and Payment to City	25	25	1	Very ambitious revenue projections, adequate commission percentag
On-Going Refurbishment, Improvements, and Maintenance	10	10	1	Solid, on-going maintenance plan. Painting, court washing, windscreen and nets
Concession Improvements	10	10	1	Realistic approach that focuses on seating areas, landscape and other ashetics
<b>TOTAL SCORE and OVERALL RANK</b>	<b>100</b>	<b>99</b>	<b>1</b>	

Joe Salaiocas, Park Services Supervisor

Panelist Name (Print)

  
Signature

1-May-13

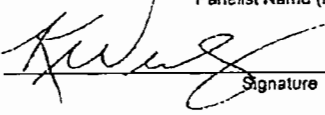
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DEPARTMENT OF RECREATION AND PARKS  
 REQUEST FOR PROPOSALS  
 FOR THE OPERATION OF THE  
 WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
 RANKING AND SCORING SHEET

THE TENNIS KEY	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	13	2	Adequate cash on hand.
Background and Experience	25	25	1	Current concessionaire. Experienced in relevant business.
Proposed Business Plan For This Concession	15	13	2	Plan is consistent with current operation. Revenues have decreased.
Proposed Revenue Sharing Fee and Payment to City	25	23	2	Revenue sharing is fair but low.
On-Going Refurbishment, Improvements, and Maintenance	10	8	2	Will perform required improvements.
Concession Improvements	10	10	1	Mobile office with restroom.
<b>TOTAL SCORE and OVERALL RANK</b>	100	92		

Z MANAGEMENT	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	15	1	Strong ability to finance.
Background and Experience	25	23	2	Zack has limited experience as concessionaire. Team is very qualified.
Proposed Business Plan For This Concession	15	15	1	Strong marketing, promotion, advertising. Innovative programs.
Proposed Revenue Sharing Fee and Payment to City	25	25	1	Strong revenue sharing.
On-Going Refurbishment, Improvements, and Maintenance	10	10	1	Strong improvement and maintenance plan.
Concession Improvements	10	8	2	Will do required improvements.
<b>TOTAL SCORE and OVERALL RANK</b>	100	96		

Kelly Werling \_\_\_\_\_  
 Panelist Name (Print)

 \_\_\_\_\_  
 Signature

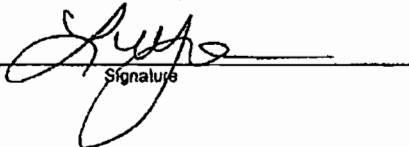
4/29/2013 \_\_\_\_\_  
 Date

DEPARTMENT OF RECREATION AND PARKS  
 REQUEST FOR PROPOSALS  
 FOR THE OPERATION OF THE  
 WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
 RANKING AND SCORING SHEET

THE TENNIS KEY	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	13	2	
Background and Experience	25	25	1	Current vendor - revenues have declined
Proposed Business Plan For This Concession	15	13	2	
Proposed Revenue Sharing Fee and Payment to City	25	23	2	Substantially lower, no plan to increase much above current level
On-Going Refurbishment, Improvements, and Maintenance	10	8	2	Current vendor, facility could use improvements
Concession Improvements	10	8	2	
<b>TOTAL SCORE and OVERALL RANK</b>	<b>100</b>	<b>90</b>	<b>2</b>	

Z MANAGEMENT	Max No. of Points (Score)	Score	Rank	Comments
Ability to Finance	15	15	1	Much larger reserve fund
Background and Experience	25	23	2	Has all other direct experience other than having control of courts
Proposed Business Plan For This Concession	15	15	1	Team is strong, varied experiences, well developed
Proposed Revenue Sharing Fee and Payment to City	25	25	1	Much higher than Tennis Key, appears to be achievable
On-Going Refurbishment, Improvements, and Maintenance	10	10	1	Recognized need for refurbishment and addresses
Concession Improvements	10	10	1	Proposal would improve more than other proposer
<b>TOTAL SCORE and OVERALL RANK</b>	<b>100</b>	<b>98</b>	<b>1</b>	

Lillian Sedlak  
 Panelist Name (Print)

  
 Signature

4-23-13  
 Date

Attachment C

**WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
REQUEST FOR PROPOSAL**

**Evaluation Panel Scoring and Ranking**

The individuals on the panel were as follows:

- Kelly Werling, Senior Recreation Director II, Recreation and Parks, who has been the director of the Cheviot Hills Recreation Center for over ten years;
- Joe Salaires, Park Services Supervisor, Recreation and Parks, who is the Division Head of the Park Services Unit and has over thirty years of experience with the Department;
- Lillian Sedlak, Senior Management Analyst II, Office of the Controller, City of Los Angeles, who has approximately fifteen years of experience working at the Controller's Office.

The aggregate panel scores are summarized as follows:

Rating Criteria	Z Management		The Tennis Key	
Ability to Finance	R1	45	R2	40
Background and Experience	R2	70	R1	75
Proposed Business Plan For This Concession	R1	45	R2	39
Proposed Revenue Sharing Fee and Payment to City	R1	75	R2	70
On-Going Refurbishment, Improvements, and Maintenance	R1	30	R2	25
Concession Improvements	R1	28	R2	27
<b>Total</b>	R1	293	R2	276

**WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
REQUEST FOR PROPOSALS (ARS-T11-02)  
RANK BY PROPOSER**

<b>Z Management</b>	<b>Werling</b>	<b>Salaices</b>	<b>Sedlak</b>	
Ability to Finance	1	1	1	
Background and Experience	2	2	2	
Proposed Business Plan For This Concession	1	1	1	
Proposed Revenue Sharing Fee and Payment to City	1	1	1	
On-Going Refurbishment, Improvements, and Maintenance	1	1	1	
Concession Improvements	2	1	1	
<b>OVERALL RANK</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>

<b>The Tennis Key</b>	<b>Werling</b>	<b>Salaices</b>	<b>Sedlak</b>	
Ability to Finance	2	2	2	
Background and Experience	1	1	1	
Proposed Business Plan For This Concession	2	2	2	
Proposed Revenue Sharing Fee and Payment to City	2	2	2	
On-Going Refurbishment, Improvements, and Maintenance	2	2	2	
Concession Improvements	1	2	2	
<b>OVERALL RANK</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>



WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
 REQUEST FOR PROPOSALS (ARS-T11-02)  
 TOTAL POINTS (SCORE) BY PROPOSER

Z Management	Max No. of Points	Werling	Salalces	Sedlak	TOTAL
Ability to Finance	15	15	15	15	45
Background and Experience	25	23	24	23	70
Proposed Business Plan For This Concession	15	15	15	15	45
Proposed Revenue Sharing Fee and Payment to City	25	25	25	25	75
On-Going Refurbishment, Improvements, and Maintenance	10	10	10	10	30
Concession Improvements	10	8	10	10	28
<b>TOTAL</b>	<b>100</b>	<b>96</b>	<b>99</b>	<b>98</b>	<b>293</b>

The Tennis Key	Max No. of Points	Werling	Salalces	Sedlak	TOTAL
Ability to Finance	15	13	14	13	40
Background and Experience	25	25	25	25	75
Proposed Business Plan For This Concession	15	13	13	13	39
Proposed Revenue Sharing Fee and Payment to City	25	23	24	23	70
On-Going Refurbishment, Improvements, and Maintenance	10	8	9	8	26
Concession Improvements	10	10	9	8	27
<b>TOTAL</b>	<b>100</b>	<b>92</b>	<b>94</b>	<b>90</b>	<b>276</b>

RANK 1  
 RANK 2

PERSONNEL DEPARTMENT CONTRACT REVIEW REPORT

1. Requesting Department: Department of Recreation and Parks

2. Contacts:

Department:	Robert Morales & Mark Stipanovich	Phone No.	(818) 243-6488	Fax No.	818-243-6451
CAO:	Veronica Salumbides	Phone No.	213-473-7561	Fax No.	213-473-7514

3. Work to be performed:

The Department of Recreation and Parks is seeking a Concessionaire to operate the Professional Tennis Concession at the Westchester Recreation Center. The Concessionaire will offer tennis instruction to patrons at reasonable rates and operate the pro tennis shop including the maintenance and upkeep of the facility, providing staff to manage the facility, stocking it with merchandise, and managing the flow of cash and inventory.

4. Is this a contract renewal? Yes  No

5. Proposed length of contract: 5 years

Proposed Start Date: February 2012

6. Proposed cost of contract: No cost; \$100,000 in revenues expected.

7. Name of proposed contractor: Unknown

8. Unique or special qualifications required to perform the work:

The operator must have knowledge and proficiency in tennis instruction, concession management, and marketing. Tennis instructors must be certified by the United States Professional Tennis Association.

9. Are there City employees that can perform some of the work being proposed for contracting?  
Yes  No

<b>Classification</b>	<b>Department(s)</b>	<b>List Expires</b>
Concessions Manager (9247)	Airports	Exempt class
Park Services Attendant	Rec & Parks and Zoo	Reserve 6/30/2015
Public Relations Specialist	Airports, Animal Services, Cultural Affairs, Convention Center, DWP, Disability, Harbor, Library, Police, PW Sanitation, Zoo	3/23/2011
Senior Clerk Typist	Various	Reserve List (indefinite)
Custodian	Airports, GSD, Harbor, PD, Sanitation, Rec & Parks, Zoo	1/22/2011
Maintenance Laborer	Public Works, Airports, other	2/25/10
Maintenance and Construction Helper	Public Works, Airports, other	7/20/12

If yes,

- a. Which class(es) and Department(s): Please see above.
- b. Is there sufficient Department staff available to perform the work? Yes  No
- c. Is there a current eligible list for the class(es)? Yes  No  Please see above.
- d. Estimated time to fill position(s) through CSC process? Unknown due to hiring freeze.
- e. Can the requesting department continue to employ staff hired for the project after project completion? Yes  No  N/A  (concession is continuous)
- f. Are there City employees currently performing some of the work? Yes  No

10. Findings

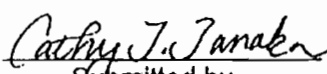
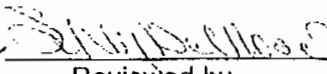
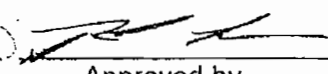
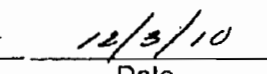
- City employees DO NOT have the expertise to perform the work
- City employees DO have the expertise to perform some of the work

Check if applicable (explanation attached) and send to CAO for further analysis

- Project of limited duration would have to layoff staff at end of project
- Time constraints require immediate staffing of project
- Work assignment exceeds staffing availability

SUMMARY:

The Department of Recreation and Parks is seeking a contractor for tennis instruction and running a pro tennis store at the Westchester Recreation Center. The instructor must be certified by United States Professional Tennis Association. There are several City classifications that may perform some of the duties outlined in the contract. However, there is not a City Classification that includes tennis instruction or managing a pro-tennis shop as a core function.

			
Submitted by	Reviewed by	Approved by	Date
Cathy T. Tanaka	Shelly Del Rosario	Raul Lemus	
Sr. Personnel Analyst I	Sr. Personnel Analyst II	Chief Personnel Analyst	

Attachment E

WESTCHESTER TENNIS PROFESSIONAL CONCESSION  
 5 YEAR ACTUAL GROSS REVENUE COMPARISON WITH  
 THE TENNIS KEYS PROFORMA PROJECTION

ACTUAL AND PROJECTED GROSS REVENUE (BASED ON SUBMITTED PROFORMA) - WESTCHESTER TENNIS PROFESSIONAL CONCESSION

