

APPROVED

REPORT OF GENERAL MANAGER

AUG 20 2008

NO. 08-238

DATE August 20, 2008

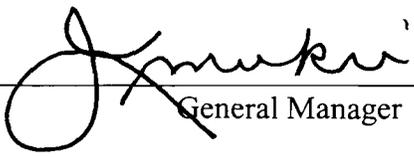
**BOARD OF RECREATION
and PARK COMMISSIONERS**

C.D. 8

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: COMMUNITY BUILD - YOUTH CENTER (W.O. #E170964A) – PROJECT STATUS REPORT AND FINAL PLANS AND CALL FOR BIDS

R. Adams	_____	J. Kolb	_____
H. Fujita	_____	F. Mok	_____
S. Huntley	_____	K. Regan	_____
V. Israel	_____	M. Shull	<u>By For</u>



 General Manager

Approved *As Amended* _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

That the Board:

1. Approve a reduction in the minimum value of base bid work to be performed by the Prime Contractor from 50% to 20%;
2. Approve final plans and specifications for the Community Build - Youth Center (W.O. #E170964A); and,
3. Approve the date for receipt of bids as Tuesday, September 30, 200~~7~~⁸, at 3:00 P.M. in the Board Office.

SUMMARY:

A specified grant of \$1,892,000 was awarded to the City, on behalf of Community Build Inc., in 2000 under the State Proposition 12 Murray-Hayden Specified Grant Program. The purpose of the grant was to expand the existing Community Build Youth Center through the acquisition and development of two parcels of land, one located at 8742 South Vermont Avenue (APN 6038-010-903) and the second located at 8750 South Vermont Avenue (APN 6038-010-904).

Founded in July 1992, Community Build, Inc., is a non-profit organization that offers academic tutoring, workshops and classes for students, peer counseling, paid internships, and mentorship programs for at-risk youth. Community Build Inc., also partners with nearby clinics to offer free

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health services. The organization currently employs thirty full-time staff in addition to volunteers. Their annual budget totals more than two million dollars and is funded by local firms, individuals, civic groups, State grants and grants from both the City and County of Los Angeles.

In April 2003, Community Build Inc., secured a loan and acquired the parcel located at 8742 South Vermont Avenue. A three-year grant agreement (C-106150) was executed between the Department of Recreation and Parks (Department) and Community Build Inc., in January 2004 to allow Community Build Inc., to utilize the State grant funds with the Department acting as a “pass-through” administrative agent. The grant agreement stipulated that Community Build Inc., would be responsible for acquisition of the two parcels, as well as, project development and operation and maintenance. After the Department provided the initial advance (\$189,200) to Community Build Inc., to pay acquisition and related costs for the first parcel, the Department submitted a request to the State for additional funding to purchase the second parcel, along with documentation of the first purchase. The State advised that the Department, as the Grantee, must own title to the property to meet the State grant program land-tenure requirements in order to access the grant funds. As an alternative to the City having to meet the land tenure requirement, State Parks recommended that a request to reallocate the funds to Community Build Inc., be made to the State legislature. Community Build Inc., sought assistance from the State Assembly to re-appropriate the funds directly to Community Build Inc., which would have allowed Community Build, Inc., to retain ownership of the parcels to be acquired and the improvements. The State legislature approved the re-appropriation directly to Community Build Inc., but unfortunately, the reallocation request was subsequently denied by the Governor in August, 2004.

In order to comply with the land-tenure requirements and ensure continued availability of the grant funds, the Department and Community Build Inc., mutually agreed, with concurrence from State Parks, that Community Build Inc., would purchase the second parcel and then transfer title of the two parcels to the Department. In May 2006, Community Build Inc., purchased the second parcel, located at 8750 South Vermont Avenue, and the Department reimbursed Community Build Inc., for the acquisition and related costs. The Department has reimbursed Community Build Inc., a total of \$345,961.24 for the cost of acquiring both parcels.

On September 6, 2006, the Board approved the transfer of ownership for both properties from Community Build, Inc., to the City. The Board also approved a lease (C-111606) of the two parcels from the City to Community Build Inc., (Board Report No. 06-258). The term of the current lease is twenty years in order to meet the required length of public use of the project as required by the Proposition 12 Murray-Hayden grant program. In accordance with the current lease, Community Build, Inc., has sole responsibility for the development of the project and its operation and maintenance during the term of the lease, including payment of all construction related costs and utilities and maintenance/repair costs associated with the expanded operations. The current lease provides that if Community Build Inc., develops, operates and maintains the project in accordance with the lease term, then upon expiration of the lease ownership of the land and improvements

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would revert back to Community Build Inc. The lease further stipulates that if during the lease period Community Build, Inc., does not provide programs at the expanded site, the Department may terminate the lease and arrange for the continuation of the project, either by an agreement with another provider or by assigning staff. Should termination of the lease become necessary, the City will retain ownership of the two parcels acquired with the Proposition 12 funds as well as the improvements. The Department would then have to ensure operation and maintenance of the Youth Center for the period of time remaining to fulfill the State grant requirement that the project remain open to the public for twenty years.

Subsequent to the execution of the current lease, the Bureau of Engineering (BOE) assumed design and construction management responsibilities with Community Build, Inc., now providing consulting services for the design and construction of the project. Due to delays associated with the many project issues, it was apparent that the project would not meet its original State grant deadline of June 30, 2008, so a grant extension request was made to the State legislature by the City. In October 2007, the City received the requested one-year grant extension to June 30, 2009.

Community Build Inc., has been working with BOE to complete the design portion of the project. During this period, a number of project related issues have arisen that have negatively impacted the project's progress toward construction. The City has been in negotiations with Community Build Inc., to resolve these issues and facilitate completion of the project. Although there are still several issues outstanding that remain unresolved, the Department and BOE recommend initiating the bid process at this time in an effort to meet the project deadline. The Department acknowledges that six issues must be addressed prior to the Board's award of a construction contract.

Issue No. 1 - Amendment to Lease Agreement

The current Lease Agreement No. C-111606 was written based on the original approach to developing the project, which stipulated that Community Build Inc., would be responsible for all aspects of the project, including all project related costs for construction. Additionally, Community Build Inc., was to operate and maintain the project during the term of the lease.

The proposed amendment to the lease that is being negotiated is necessary in order to bring the lease agreement into conformance with the current approach to development of the project, specifically that BOE will now be responsible for managing construction of the project with Community Build Inc., performing consulting services.. Additionally, the amended lease would address the responsibility for construction costs, including cost overruns, as well as other miscellaneous provisions. Community Build Inc., would remain responsible for operation and maintenance.

Grant Agreement No. C-106150 between the Department and Community Build Inc., provided that Community Build Inc., would develop, operate and maintain the project and the City was to be merely a pass-through entity for the Proposition 12 grant funds. That grant agreement expired on

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January 26, 2007. The Department prepared a new proposed grant agreement that would reflect the current approach to development of the project whereby BOE would manage construction of the project. Upon completion of construction, Community Build Inc., would operate and maintain the facility. Community Build Inc., has been unwilling to enter into a new grant agreement. The Department intends to include the applicable Proposition 12 grant program requirements in the proposed amendment to the lease so that the lease serves the dual purpose of leasing the property to Community Build Inc., and passing on the State grant program requirements to Community Build Inc., except for the requirement for Community Build Inc., to construct the project.

Issue No. 2 – Cost Overruns

Section 6.2 of the current Lease Agreement states that Community Build Inc., is responsible for all project costs and expenses. The change to the project development strategy has raised an issue regarding responsibility for cost overruns. In an effort to complete the project with the available funds, BOE has reflected in the project budget a 20% contingency with one of the project elements (the sound conditioning room) listed as an additive alternate in the bid solicitation documents. This will offer some flexibility in staying within the project budget. Additionally, there is a budget line item to cover Community Build Inc.'s consulting services costs which could be reduced as necessary to cover project costs. Both of these actions will minimize the impact of cost overruns. Moving forward with the bid process at this time will allow for review of actual bids and assist all parties in making a more informed determination regarding the potential and magnitude for cost overruns, as well as whether to move forward with the project.

Issue No. 3 – Additive Alternates

The original design called for several project elements -- a sound conditioning room, a breezeway, and a demonstration garden -- that have been removed from the base bid in an additional effort to reduce project costs and minimize cost overruns. The sound conditioning room which would be constructed within the new youth center building is now listed in the bid documents as an additive alternate, as discussed above.

The breezeway and demonstration garden were to have been constructed on property that Community Build Inc., owns where their existing youth center is located (8730 South Vermont Avenue), which is immediately adjacent to the project site. Since Community Build Inc., owns the site where its existing youth center is located, the City has no real property interest in Community Build Inc.'s property. Therefore, to complete these improvements using the Proposition 12 grant funds, the Department would have to establish some type of land tenure to satisfy the grant requirements. The City had suggested to Community Build Inc., an Option to Lease/Lease, along with a Right of Entry Permit. However, Community Build Inc., so far has not been agreeable to giving the City any property rights to their site that would meet the Proposition 12 grant program requirements.

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In an effort to eliminate the land tenure issue for use of the State grant funds on property owned by Community Build Inc., Council District 8 identified \$125,000 (Assembly Bill 1290) funds from the Community Redevelopment Agency to cover the cost of the breezeway and demonstration garden. In a recent communication from Community Build Inc., they agreed to eliminate the breezeway and demonstration garden and related work that would have been done on property owned by Community Build Inc., in order to focus on completion of the base project that will be build on property owned by the City and leased to Community Build Inc., to meet the Proposition 12 grant requirements. Community Build Inc., has recommended revisiting these improvements after the base project has been completed. Should there be a decision to move forward with these project elements to be located on Community Build Inc.'s property with the construction contractor selected for the Youth Center expansion project, completion of these elements may be accomplished via negotiated change orders, provided that Community Build Inc., executes a Right of Entry Onto Private Property that would allow the City and its contractor to do the work on property owned by Community Build Inc., and the work is paid for by non-Proposition 12 grant funds.

Issue No. 4 – Community Redevelopment Agency Funds

In addition to the Proposition 12 Murray-Hayden Specified funds, Council District 8 has identified \$125,000 in Community Redevelopment Agency Assembly Bill 1290 funds for the base project and/or the project elements (breezeway and demonstration garden) that might be constructed on property owned by Community Build Inc. Approval of the funds is scheduled for the Community Redevelopment Agency Commission meeting on September 18, 2008. Authorization for the Department to accept these funds for the project will be requested from the Board at a future meeting.

Issue No. 5 – Community Build Consulting Services Contract

Community Build Inc., is requesting reimbursement from project funds for staff costs associated with Community Build Inc.'s consulting activities. Payment for the cost of Community Build Inc.'s consulting services was originally to have been included in the proposed new grant agreement. Since Community Build Inc., was not willing to enter into a new grant agreement, the City proposed that a separate professional services agreement be negotiated with Community Build Inc., in order to contractually authorize payment to Community Build Inc., for consulting services. Community Build Inc., has agreed to explore entering into such a separate contract on mutually agreeable terms to provide for payments to Community Build Inc., for its consulting services.

Issue No. 6 – Grant Extension Number 2

Due to additional project delays related to efforts to address the aforementioned issues, in May of 2008 the City requested a second one-year grant extension from the State legislature from June 30, 2009 to June 30, 2010. However, the City was recently informed by the City's lobbyist that the

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extension was not submitted in time for review by the State budget subcommittee as part of the 2008/2009 budget process. The City will again seek a grant extension to June 2010 during the mid-year State budget subcommittee meetings. We have been advised that if approved, a legislative extension of the deadline would not likely occur until late in the spring of 2009.

The project's current deadline of June 30, 2009 requires that construction of the project and all City closeout actions and reports must be completed by March 20, 2009, in order for the State to close out the project and process final reimbursements to the City before the current grant deadline. The Bureau of Engineering estimates a seven-month construction period with the landscape maintenance period running concurrent with the construction period. Thus, construction must begin in early October of this year to meet the current State grant deadline, since it will not be known until sometime near the current deadline whether a further extension of the deadline will be approved.

Meeting with Community Build

In an effort to resolve the aforementioned issues, Council District 8 has scheduled a meeting for August 18, 2008 with Community Build Inc., and City staff from the Mayor's Office, Chief Legislative Analyst's Office and Chief Administrative Officer's Office. Staff will be able to report orally what occurred at the meeting, but as of the time this report is being written the meeting hasn't yet occurred.

Most of the above issues will have to be resolved prior to the award of a construction contract. An amendment to the lease to provide for the City and its contractors to construct the project would have to be executed preferably by the time the construction contract is awarded, and certainly prior to execution of the construction contract.

Project Plans and Specification

Submitted for Board approval are final plans and specifications for the Community Build - Youth Center (W.O. #E170964A) project, located at 8742 and 8750 South Vermont Avenue, Los Angeles, California, 90044. The plans provide for the construction of a new youth center and landscaping improvements. The proposed new structure is a single story, approximately 2,200 square foot pre-fabricated youth center which includes a yoga/dance studio, art classroom, breakroom, restrooms, and offices. Landscape improvements include gathering areas, landscaping, paving and irrigation work. A sound conditioning room in the recording room will be included in the bid as an additive alternate in order to provide the maximum scope possible with the available funding.

Final plans and specifications are complete. Plans for this project were prepared by the Bureau of Engineering, Architectural Division. The estimate for the construction cost of this project is \$870,000. The improvement below is included in the bid as an additive alternate in order to gain flexibility in providing the maximum scope possible with the available funding.

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Additive Alternate No. 1 – Installation of a sound conditioning room in the recording room.

The project currently has a grant liquidation date of June 30, 2009, which requires that the project be completed, open to the public, accepted by the Board and all close-out documentation submitted to the State no later than March 31, 2009. The Department has requested a second grant extension; however, it was not submitted to the State in sufficient enough time to be included in the 2008-2009 budget process. Upon the recommendation of our State lobbyist, we will resubmit the extension request for the next State budget process. However, because the disposition of an approval of a second extension is not known at this time, the Department is making every effort to get the project done by the current deadline. The bid package has been approved by the City Attorney's Office.

Reduction of Prime Contractor Participation from 50% to 20%

The scope of any building project involves the participation of many different types of subcontractors with no particular contracting trade dominating the overall scope of work. Currently, the policy of the Board has been to require that the Prime Contractor perform a minimum of 50% of the value of the base bid. Staff believes that reducing the Prime Contractor minimum participation requirement to 20% on this project will help create more competitive bid pricing among the subcontractors providing bids to the Prime Contractors and will also attract a broader range of Prime Contractors, thus, creating a larger competitive market.

Project Funding

The following funding sources have been identified for this project:

<u>FUNDING SOURCE</u>	<u>FUND NO./DEPARTMENT NO. /ACCOUNT NO.</u>
Proposition 12 Murray Hayden	205/89/VB07
*Community Redevelopment Agency	TBD

*Pending approval of the CRA Board at its September 18, 2008 meeting.

Environmental

In compliance with the California Environmental Quality Act (CEQA), staff determined that the project will involve the construction of a small modular building; therefore, the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article 111, Section 1, Class 3 (1 7) and Class 16 of the City CEQA Guidelines.

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FISCAL IMPACT STATEMENT:

There are several issues related to this project that could have a fiscal impact on the Department's General Fund namely:

1. There would be no fiscal impact resulting from the Board's approval to go out to bid on this project;
2. Should the Board choose to award a subsequent construction contract for this project, a more accurate estimate of potential fiscal impact associated with cost overruns can be made prior to approval of such contract.
3. In event that the project is not completed in time to meet the current June 30, 2009 grant deadline, the City may have to refund to the State up to the full amount of the grant award, or some portion thereof, which may include the acquisition costs. Additionally, the disposition of the property will have to be resolved as the transfer of title to the City presumed that Community Build Inc., would own the property and improvements at the expiration of the lease.
4. If Community Build, Inc., defaults on the current lease, which requires that they operate and maintain the project through the May 31, 2027, the Department will need to find another provider or assume the responsibility and budget the resulting expense of operation and maintenance of the new Youth Center project through the end of the lease.

This Board Report was prepared by Ofelia Rubio, Project Manager, and reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program and Jason Lew, Grants Administration, Recreation and Parks. Reviewed by Deborah J. Weintraub, Acting Chief Deputy City Engineer, Bureau of Engineering. Reviewed by Michael A. Shull, Superintendent, Planning and Development, Recreation and Parks.