

FORM APPROVED COUNTY COUNSEL
 BY: MSH 7/27/10
 MARSHAL VICTOR DATE

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

133



FROM: Parks Department

SUBMITTAL DATE:
 July 19, 2010

SUBJECT: Mayflower Park Phase 2 Improvement Project – Award of Construction - District IV

RECOMMENDED MOTION: That the Board :

1. Find the bid by Doug Wall Construction non-responsive;
2. Waive any minor irregularities in bid by A.E.L. Construction, Inc. as recommended in the findings set forth below;
3. Award the construction contract to the lowest responsive bidder A.E.L. Construction, Inc.;
4. Authorize the Chair to execute the agreement with A.E.L. Construction, Inc., Blythe, California, in the amount of \$3,109,000 for the Mayflower Park Phase 2 Improvement Project;
5. Instruct the Clerk of the Board to return four (4) executed copies of the agreement to the Department for transmittal and file; and
6. Authorizes the Auditor-Controller to post the budget adjustment as shown on the attached Schedule A.

BACKGROUND: On April 20, 2010 (per Board Minute Order 13.1), the Board of Supervisors approved the plans and specifications for the construction of the Phase 2 project at the Mayflower Park site. The project will consist of a new maintenance facility, new entry kiosk, new potable water well, additional shade structures, expansion of the existing dry RV storage area, and landscaping. The Clerk of the Board advertised for bids.

(continued on page 2)

[Signature]
 Scott Bangle, Director

2011-001:SB:SL

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 3,109,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	Yes
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

SOURCE OF FUNDS: 2002 Resources Bond Act Per Capita Program (69%), East County Parks Development Impact Fees (28%), Parks Department Fund (3%)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
 BY: Alex Gann
 Alex Gann

County Executive Office Signature

FISCAL PROCEDURES APPROVED
 BY: Samuel Wong 7/27/10
 ROBERT E. BYRD, AUDITOR-CONTROLLER

Dept's Recomm.: Policy
 Per Exec. Ofc.: Policy

Prev. Agn. Ref.: 1/26/10, 13.1; 4/20/10, 13.1; 6/15/10, 13.1 | **District:** IV | **Agenda Number:**

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

13.1

SUBJECT: Mayflower Park Phase 2 Improvement Project – Award of Construction - District IV

Bids were received and publicly opened by the Clerk on May 19, 2010, with the Clerk receiving four (4) bids. A bid protest was filed, and upon review, it was determined that the two lowest bidders were non-responsive. The Department then opted to re-bid the project.

On June 15, 2010 (per Board Minute Order 13.1), the Board of Supervisors approved the rejection of all bids and authorized the Clerk of the Board to advertise for bids. Bids were received and publicly opened by the Clerk on July 15, 2010, with the Clerk receiving five (5) bids. Three bid protests were received by Doug Wall Construction, A.E.L. Construction, Inc., and C.N.B. Excavating, Inc. The protests contended that certain items in the bids by Doug Wall Construction and A.E.L. Construction Inc. made those bids non-responsive. A summary of the protests and the Department’s response to those protests can be found in the chart below. Department staff and County Counsel have reviewed the protest information and conclude the protest issues related to the lowest bidder warrant the rejection of said bid. Department staff and County Counsel then reviewed the protest information related to the second lowest bidder and concluded the protest issues do not warrant rejection of the bid and it is appropriate to proceed with the award to A.E.L. Construction, Inc. Therefore it is recommended that the Board award the lowest, responsive/responsible bid submitted by A.E.L. Construction, Inc., Blythe, California in the amount of \$3,109,000.

All costs associated with this project will be funded through the Park Department funds, existing Development Impact Fee commitments (August 23, 2005, M.O. 3.65) and State Resources Bonds; thus there is no fiscal impact to the County General Funds as a result of this project.

Summary of Bid Protests and Recommended Findings

Bid Protest Item Re Doug Wall Construction	Department Response	Recommended Finding
Item 4 of Addendum No. 4 stated “All bidders are directed to use an allowance in their bids and therefore directed to enter \$400,000 (four hundred thousand) on <u>‘Item 4 Installation of a Well and Domestic Water System’</u> of the Bid Schedule.” Doug Wall Construction did not.	The referenced Addendum item was clear in stating to enter the \$400,000 figure in the appropriate location. This could constitute a clerical error for which Doug Wall Construction would be entitled to request relief from his bid under Public Contract Code Section 5103, and suffer no penalty against his bid bond. That option gives this bidder an advantage over the other bidders which cannot be waived as set forth in case law under the Public Contract Code.	Bid from Doug Wall Construction, Inc., is non-responsive.

Bid Protest Item(s) Re A.E.L. Construction	Department Response	Recommended Finding
<p>As stated by the CSLB, well drilling cannot be self-performed by an “A” or “B” licensed contractor. The fourth low bidder argues that since AEL does not have a C-57 well drilling license and did not list one on his subcontractor list, this makes the bid by AEL nonresponsive and invalid.</p>	<p>AEL’s listed sub-contractor, JPI is listed to perform all plumbing, underground utilities, and well work. Per confirmation letter dated July 22 from AEL, they are aware of the licensing restriction and JPI will be sub-contracting with Palm Springs Pump for the well drilling portion of the work. Palm Springs Pump has a C-57 (Well Drilling) license.</p>	<p>Bid from AEL Construction, Inc., is responsive.</p>
<p>The fourth low bidder states that A.E.L. submitted two bid forms, and altered the bid form, and it is therefore non-responsive.</p>	<p>Bid Addendum No. 2 to the project specifications provided a new bid form. The difference between the original and new form was to combine two lines items into one – the description of the work remained the same. A.E.L. submitted both the original form and the newer form. The bid is the same on the two line items and the total bid is the same. This does not give the bidder any advantage and is a minor irregularity that can be waived.</p> <p>It is unclear what part of the bid form is alleged to be modified. A copy of the bid does make it appear that the numbers in front of each line item are blacked out, however the original form reveals that these numbers were merely highlighted with a marker pen.</p>	<p>This is a minor irregularity that can be waived and bid from A.E.L. is responsive.</p>

Schedule A

Increase Appropriations:

25400-931104-551100	Contribution to Other County Funds	\$ 100,000
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Expected Offset:

25400-931104-325100	Unreserved Fund Balance	\$ 100,000
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AGREEMENT

Phase 2 Improvements at Mayflower Park PKARC – 070

This Agreement is entered into at Riverside, California on August 10, 2010, and is between the **Riverside County Parks Department**, hereafter called "**DEPARTMENT**" and A.E.L. Construction, Inc., Blythe, California, hereinafter called "**CONTRACTOR**".

1. **CONTRACTOR** has submitted to the **DEPARTMENT** its bid for the **Phase 2 Improvements at Mayflower Park**, hereafter called "Project," and all appurtenant work in strict accordance with the Contract Documents identified below and the **DEPARTMENT** has accepted said bid.

2. **CONTRACTOR** has re-examined and carefully studied its bid and found it to be correct; ascertained that its subcontractors are properly licensed and possess the requisite skill and forces and will enter into agreements containing contractual terms identical to those of this Agreement; examined the site and fully understands all of the Contract Documents; and can do the work in accordance with the Contract Documents for the price set forth in its bid.

3. Contract Documents: The entire contract consists of the following: (a) this Agreement; (b) the Notice Inviting Bids; (c) the Instructions to Bidders; (d) the Bid Form; (e) the Bid Bond; (f) the Payment Bond; (g) the Performance Bond; (h) all applicable State and Federal requirements; (i) the General Provisions; (j) the Special Provisions (Technical Specifications); (k) Plans and Drawings; (l) any addenda issued for the project; (m) any change orders issued for the project; (n) any additional or supplemental specifications or drawings issued in accordance with the provisions of the Contract Documents; (o) meeting minutes and any field orders. All of these documents are by this reference incorporated herein with like effect as if here set forth in full; and upon the proper issuance of other documents they shall likewise be deemed incorporated.

4. The Work: **CONTRACTOR** shall do all things necessary to accomplish the work described in the Contract Documents; and shall commence work within fifteen (15) calendar days after receipt of a Notice to Proceed and shall complete the work within one hundred twenty (120) calendar days after its receipt of said Notice.

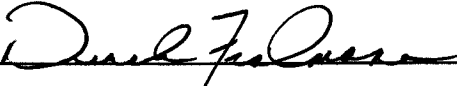
5. Compensation:

CONTRACTOR shall be paid the following total amount, in the manner set forth in the Contract Documents, the lump sum of:

\$3,109,000 (Three Million One Hundred Nine Thousand Dollars and 0/100)

The parties have executed this Agreement as of the date set forth on Page 1 of this Agreement.

CONTRACTOR:

COMPANY NAME: AEL CONSTRUCTION, INC.
BY: 
NAME: DEREK FRAHMANN
TITLE: SECRETARY

OWNER:

RIVERSIDE COUNTY PARKS DEPARTMENT

BY: _____
Marion Ashley
Chairperson, Board of Supervisors

ATTEST:

CLERK OF THE BOARD
Kecia Harper-Ihem

BY: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

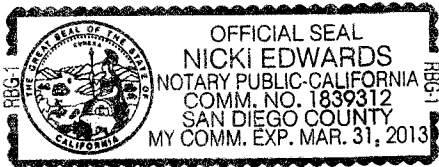
State of California

County of San Diego

On July 26, 2010 before me, Nicki Edwards, Notary Public,

personally appeared Derek Frahmann, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

Nicki Edwards
Signature of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- INDIVIDUAL
- CORPORATE OFFICER

Agreement

Secretary

- PARTNER(S) LIMITED
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR

OTHER:

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
AEL Construction, Inc.