



Office of the City Manager

## REVISED AGENDA MATERIAL

**Meeting Date:** April 20, 2021

**Item Number:** 16

**Item Description:** Contract: ERA Construction Inc. for King School Park Play Area Renovation Project

**Supplemental/Revision Submitted By:** Scott Ferris, Director, Parks Recreation & Waterfront

**“Good of the City” Analysis:**

*The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.*

This revised language in **Background** was updated to be consistent with City’s final determination of the lowest responsive, responsible bidder.

***Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)***

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Office of the City Manager

CONSENT CALENDAR  
April 20, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
Subject: Contract: ERA Construction Inc. for King School Park Play Area Renovation Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the King School Park Play Area Renovation Project, Specification No. 21-11435-C;
2. Rejecting the lowest bid from Kompan California Inc. as non-responsive;
3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction Inc.; and
4. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with ERA Construction Inc. for the King School Park Play Area Renovation Project at 1700 Hopkins Street, Berkeley, CA 94702, in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the Parks Tax Fund, and will be included in the Second Amendment to the FY 2021 Annual Appropriations Ordinance. No other funding is required, and no other projects will be delayed due to this expenditure.

ERA Construction Inc. (lowest bid).....	\$542,032
<u>20% Contingency</u>	<u>\$108,406</u>
Total construction cost	\$650,438
Parks Tax Fund.....	\$650,438
(138-52-545-000-0000-000-461-663110-PRWPK19003)	
<u>Total funding</u>	<u>\$650,438</u>

CURRENT SITUATION AND ITS EFFECTS

The existing playground at King School Park at 1700 Hopkins Street, Berkeley, CA 94702 are in need of repair and renovations. During a winter event in February 2019, a large eucalyptus tree fell, damaging the play equipment and site. This project includes the replacement and renovation of the damaged 2-5 playground area, installation of a

new climbing structure for age group 5-12 where the tree once stood, and improvements to other site features and amenities in conformance with current ADA standards.

### BACKGROUND

The project was advertised for bids on Wednesday, February 17, 2021, and bids were opened on March 4, 2021. The City received eight bids, from a low base bid of \$532,667 to a high base bid of \$804,208.

On March 8, 2021, the City received a bid protest from the apparent second lowest bidder, ERA Construction Inc. ("ERA"), alleging four issues from the apparent low bidder, Kompan California Inc. ("KCI"). A copy of the bid protest was sent to KCI to provide them an opportunity to respond to the protest issues. KCI's response was then forwarded to ERA for their opportunity to respond to ensure that all parties had an opportunity to present all facts and arguments in support of their positions. City staff, including staff from the City Attorney's office, carefully reviewed and investigated the bids, protest and responses. Upon review of the documents, and independent research, the City found that KCI does not meet the minimum bidder qualifications per Document 00 4513 Statement of Qualifications. Per Document 00 4513, bidders must ~~have three (3) years experience as a continuously operating entity engaged in the performance of similar work. Though "Kompan Inc." is a worldwide company, the company "Kompan California Inc." is a separate California entity, and was issued a Class A General Engineering Contractor License on December 24, 2020 by the California Department of Consumer Affairs Contractor's State License Board. Kompan California Inc. does not meet the City's minimum qualifications to bid the project. Subsequently, City staff concluded that KCI's bid should be deemed non-responsive.~~ demonstrate completion of two (2) projects of a similar nature and complexity with a contract dollar amount of (i.) at least 75% of the amount of Bidder's Bid or (ii.) 125% of such amount in the aggregate. The projects listed in the "Envelope B -Statement of Qualifications" submission was not in compliance with the required 75% of bidder's bid.

Additionally, Kompan's bid is also non-responsive because it acknowledges that it failed to write its name on the bid form as required and failed to date their signature on Document 00 4546 Bidder Certifications. Subsequently, City staff concluded that KCI's bid should be deemed non-responsive.

As a result, ERA Construction Inc. became the lowest responsive and responsible bidder. References for ERA Construction Inc. were provided and checked out satisfactorily. Staff recommends that a contract for this project be awarded to ERA Construction Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance. The contract will be subject to the Community Workforce Agreement.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

RATIONALE FOR RECOMMENDATION

The renovation of the existing age 2-5 play structures is needed to replace the damaged playground which has remained unusable since the tree fell in February 2019. The work will also renovate the site to comply with current accessibility and building codes. The City does not have in-house labor or equipment resources to complete this renovation project.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700

Evelyn Chan, Supervising Civil Engineer, Parks Recreation & Waterfront, 981-6430

Attachments:

1: Resolution

2: Bid Results

RESOLUTION NO. ##,###-N.S.

CONTRACT: ERA CONSTRUCTION INC. FOR THE KING SCHOOL PARK PLAY  
AREA RENOVATION PROJECT

WHEREAS, the playground at King School Park is in need of renovation; and

WHEREAS, the City has neither the in-house labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on February 17, 2021, bids were opened on May 4, 2021, and the City received eight bids; and

WHEREAS, upon receipt of a bid protest, review of the submitted bids, and careful consideration, the bid from the apparent low bidder, Kompan California Inc., was deemed non-responsive; and

WHEREAS, ERA Construction Inc. was determined to be the lowest responsive and responsible bidder, and references for ERA Construction Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the Parks Tax Fund (Fund 138).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specifications for Specification No. 21-11435-C for the King School Park Play Area Renovation Project are approved.

BE IT FURTHER RESOLVED that the bid from Kompan California Inc. is deemed non-responsive and is rejected; and that the construction contract is awarded to ERA Construction Inc. as the lowest responsive and responsible bidder for a total contract amount of \$650,438.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with ERA Construction Inc. for the King School Park Play Area Renovation Project in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.