



STAFF REPORT

Meeting Date: March 17, 2021
To: Board of Directors
From: Michael J. Aho – District Administrator
Subject: Award of Bid for Construction of Streng Park

I. Recommendation

Award Bid No. BP#21-101 to Olympic Land Construction for Six hundred Seventy-eight thousand One hundred Dollars (\$678,100) for construction of Streng Park excluding the playground equipment and installation of the equipment. Authorize the District Administrator to execute all agreements and contract associated with award (Attachment A) and authorize the District Administrator to execute change orders up to the \$85,000 allowance which is included in the total bid amount.

II. Background

The District received the land for Streng Park from Sacramento County in November 18, 2018. Planning for the development of the park began shortly after that. Funding sources were identified in 2019 and development plans were created by Verde Designs.

Bids for construction of Streng Park were received by the District on February 23, 2021 with three licensed and bonded contractors bidding on the project. The bids included a required \$85,000 allowance for unforeseen expenditures.

- \$844,112
- \$770,000
- \$678,100

Expenditures of the \$85,000 allowance must have prior approval from the District.

III. Problem /Situation/ Request

Notice to proceed will be issued by the District and Construction will be completed by July 9, 2021, Punchlist, and project acceptance by July 30, 2021 and close-out completion by September 10, 2021.

IV. Financial Analysis

The low bid of \$678,100.00 was received from Olympic Land Construction. Funding for this project will include \$200,000 from Measure J funding with \$177,952 from the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018-Per Capita Grant Program (Prop 68) and the remaining balance from Park District Impact Fees.

Respectfully Submitted,

Michael J. Aho
District Administrator

Attachment A-Contract

1 **Section 00 52 00 - FORM OF CONTRACT**

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3 ARTICLE 1. AGREEMENT FOR CONSTRUCTION

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5 This contract is contingent upon Fair Oaks Recreation and Park District Board approval and will not

6 be valid unless approved.

7

8 THIS AGREEMENT is made and entered into as of this **17th day of March, 2021**, by and between the Fair

9 Oaks Recreation and Park District (hereinafter referred to as "District"), and **Olympic Land Construction**, an

10 independent contractor (hereinafter referred to as "Contractor").

11

12 District and Contractor hereby mutually agree as follows:

13

14 Section 1 - SCOPE OF WORK.

15 Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor and materials and

16 transportation necessary to perform and complete in a good and workmanlike manner to the satisfaction

17 of District, all work called for and in the manner designated in, and in strict accordance with, the Contract

18 Documents as defined in Section 2 hereof, the Work for the **Swallow Way Park (Jim Streng Park), BP#21-101.**

19

20 Section 2 - CONTRACT DOCUMENTS.

21 The Contract Documents, sometimes also referred to as "the Contract", consists as applicable, the Notice

22 to Bidders, the Instructions for Bidders, the Proposal Form, the Agreement for Construction, the Bid Bond, the

23 Performance Bond, the Payment Bond, these General Conditions, the Special Provisions, the General

24 Requirements, Exhibits, the Technical Specifications, the Contract Drawings and Plans, all duly issued

25 Addenda, Interpretations, Change Orders, supplemental drawings, Architect's Instruction Bulletins, the

26 Contractor's Guarantee and Bond, Preliminary Construction Schedule, and the Contract Schedule.

27

28 Section 3 - DEFINITIONS.

29 Unless otherwise specifically provided herein, all words and phrases defined in the General Conditions shall

30 have the same meaning and intent in this Agreement.

31

32 Section 4 - CONTRACT AMOUNT.

33 District agrees to pay and Contractor agrees to accept, for the full and complete performance of this

34 Agreement in full payment for the Work performed the sum of **Six hundred Seventy-eight thousand One**

35 **hundred DOLLARS (\$678,100.00)**, subject to adjustment as provided in the Contract Documents.

36

37 Section 5 - MONTHLY PROGRESS PAYMENTS.

38 Monthly progress payments shall be made in accordance with Article 12 of the General Conditions of the

39 Contract Documents.

40

41 Section 6 - FINAL PAYMENT.

42 Final payment shall be made in accordance with Article 21 of the General Conditions.

43

44 Section 7 - RETENTION OF SUMS CHARGED AGAINST CONTRACTOR.

45 When, under this provisions of the Contract Documents, District shall charge any sum of money against

46 Contractor, District shall deduct and retain the amount of such charge from the amount of the next

47 succeeding progress payment, or from any other monies due or that may become due to Contractor from

48 District. If, on completion or termination of the Contract, sums due Contractor are insufficient to pay

49 District's charges against Contractor, District shall have the right to recover the balance from Contractor

50 or its sureties.

1 Section 8 - TIME OF COMPLETION.

2 The Work shall be commenced on the date specified in the District's "Notice to Proceed," and shall be fully
3 completed as described in the Contract Documents, including, without limitation, the General Conditions,
4 **Construction completed by July 9, 2021, Punchlist, and project acceptance by July 30, 2021 and Close-out**
5 **completion by September 10, 2021** together with such additional time as may be provided by any change
6 order issued pursuant to the Contract Documents.
7

8 Time is of the essence in this Agreement and the Contract Documents. Failure of Contractor to complete
9 the Work by the completion date and in the manner provided for by the Contract Documents shall subject
10 Contractor to liquidated damages as hereinafter provided in this Agreement and the Contract
11 Documents.
12

13 Section 9 - NO WAIVER OF REMEDIES.

14 Neither the inspection by District or its agents, nor any order or certificate for payment of money, nor any
15 payment for, nor acceptance of the whole or any part of the Work by District, nor any extensions of time,
16 nor any position taken by District or its agents shall operate as a waiver of any provision of this Agreement
17 or the Contract Documents or of any power herein reserved to District or any right to damages herein
18 provided, nor shall any waiver of any breach of this Agreement or of the Contract Documents be held to
19 be a waiver of any other or subsequent breach. All remedies provided in this Agreement and in the
20 Contract Documents shall be taken and construed as cumulative; that is, in addition to each and every
21 other remedy provided in this Agreement and/or the Contract Documents, and District shall have any and
22 all equitable and legal remedies, which it would in any case have.
23

24 Section 10 - LIQUIDATED DAMAGES.

25 Liquidated damages may be assessed against Contractor in accordance with Article 14 of the General
26 Conditions and Section 00 73 00, Special Provisions, in the amount of **\$500** per calendar day if Contractor
27 fails to complete the Work within the Contract Time. The provision for liquidated damages in the Contract
28 Documents shall not act as a limitation upon District if Contractor abandons the Work. In such event,
29 Contractor shall be liable to District for all losses incurred.
30

31 Section 11 - PERFORMANCE AND PAYMENT BONDS.

32 Contractor, before beginning the Work, shall file a Performance Bond and a Payment Bond with District,
33 each made payable to District. These bonds shall be issued by a surety company authorized to do business
34 in the State of California and shall be maintained during the entire life of the Contract at the expense of
35 Contractor. Each bond shall be in the amount of one hundred percent (100%) of the Contract. The
36 Performance Bond shall guarantee the faithful performance of the Contract. The Payment Bond shall be
37 in accordance with the requirements of Part 6, Title 3, Chapter 5 of the California Civil Code, commencing
38 with section 9550. Any alteration or alterations made in any provision of the Contract shall not operate to
39 release any surety from any liability on any bond required hereunder and the consent to make such
40 alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of
41 the Civil Code.
42

43 Section 12 - UNFAIR COMPETITION.

44 The following provision is included in this Agreement pursuant to California Public Contract Code section
45 7103.5.
46

47 "In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to
48 a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body
49 all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15
50 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700 of Part 2 of Division
51 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to
52 the public works contract or subcontract. This assignment shall be made and become effective at the
53 time the awarding body tenders final payment to the contractor, without further acknowledgment by the
54 parties."
55

1 Section 13 - ASSIGNMENT.

2 Neither this Agreement nor any rights herein of Contractor shall be assigned without the written consent of
3 District first obtained.

4
5 Section 14 - NO THIRD PARTY BENEFICIARIES.

6 This Agreement is entered into solely between District and Contractor. There are no third-party
7 beneficiaries, intended, unintended, or otherwise to this Agreement.

8
9 Section 15 - AGREEMENT BINDING.

10 This Agreement shall bind and insure to the heirs, devisees, assignees and successors in interest of
11 Contractor and to the successors in interest of District in the same manner as if such parties had been
12 expressly named herein.

13
14 Section 16 - AGREEMENT CONTROLS.

15 In the event of a conflict between the terms and conditions set forth in this Agreement and the terms and
16 conditions set forth in the other Contract Documents, the terms and conditions set forth in this Agreement
17 shall prevail.

18
19 Section 17 - GOVERNING LAW.

20 This Agreement will be governed by and construed in accordance with the laws of the State of California.

21
22 IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above
23 written.

24
25 **Contractors are required by law to be licensed and regulated by the Contractor's State License Board,**
26 **which has jurisdiction to investigate complaints against contractors if a complaint is filed within three years**
27 **of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar,**
28 **Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.**

29
30 District: Fair Oaks Recreation and Park District

31
32 By: _____
33 Mike Aho

34
35 Its: District Administrator

36
37 Contract Amount: **\$678,100.00**

38
39 Board Approval Date: **March 17, 2021**

40
41 (Corporate Seal)

42 Contractor: **Olympic Land Construction**

43 By/Title: _____

44 Signature: _____

45 Business Address: _____

46 License Number: _____

47 Contractor DIR Registration #: _____

48 Federal I.D. #: _____

1 CORPORATE CERTIFICATE

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3 I, _____, certify that I am the Secretary of the corporation named as Contractor in the
4 foregoing contract; that _____, who signed said contract on behalf of said corporation is
5 authorized to fully bind the corporation to this Agreement; that said contract was duly signed for and on
6 behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.
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9
10 (Corporate Seal)

Secretary

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Section 00 61 13.13 – PAYMENT BOND FORM

Bond No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, FAIR OAKS RECREATION AND PARK DISTRICT (the "District") has awarded to **Olympic Land Construction** as Principal a contract dated the **17th day of March 2021**, for the furnishing of labor, materials, equipment, transportation and services for the construction of **Swallow Way Park (Jim Streng Park), BP#21-101** Project located in Sacramento County, California (hereinafter referred to as the "Contract");

AND WHEREAS, Principal is required to furnish a bond in connection with the Contract to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;

NOW THEREFORE, we the undersigned Principal and _____ as Surety, are held and firmly bound unto the District in the sum of **Six hundred Seventy-eight thousand One hundred DOLLARS (\$678,100.00)** for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1. THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by the District or its Subcontractors shall fail to pay any of the persons named in State of California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the State of California Unemployment Insurance Code with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall become and be null and void.

2. This Bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under California law, including but not limited to the persons named in State of California Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

3. Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder. Surety further waives the provisions of Section 2845 of the State of California Civil Code.

4. Amounts owed by the District to Principal under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under the Performance Bond. By Principal furnishing and the District accepting this Payment Bond, they agree that all funds earned by Principal in the performance of the Contract are dedicated to satisfy obligations of Principal and Surety under this Bond, subject to the District's priority to use the funds for the completion of the Work or the satisfaction of the District's claims, including liquidated damages, under the Contract.

5. Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with the Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against

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any one or more of them, or against less than all of them without impairing the District rights against the other.

6. In the event suit is brought upon this bond, the parties not prevailing in such suit shall pay reasonable attorneys' fees and costs incurred by the prevailing parties in such suit.

7. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20____.

Principal: _____
(Name of Firm)

Surety: _____
(Name of Firm)

By: _____

By: _____

Title: _____

Title: _____

Address for Notices:

Phone # _____

Fax # _____

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached

Address for Owner Notices:
FAIR OAKS RECREATION AND PARK DISTRICT
Attn: Mike Aho
4150 Temescal Street, Fair Oaks, CA 95628

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Section 00 61 13.16 - PERFORMANCE BOND FORM

Bond No. _____

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, FAIR OAKS RECREATION AND PARK DISTRICT hereinafter referred to as "District" and **Olympic Land Construction** (hereinafter referred to as "Contractor"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the construction of **Swallow Way Park (Jim Streng Park), BP#21-101** Project located in Sacramento County, California (hereinafter referred to as the "Construction Contract"); and

WHEREAS, Contractor is required by the terms of the Construction Contract dated **17th day of March 2021**, to furnish a bond for the faithful performance of all terms and conditions of the Construction Contract;

NOW, THEREFORE, Contractor, as principal, and _____ (hereinafter referred to as "Surety"), as Surety, are held and firmly bound unto District and Claimants, as defined herein, in the penal sum of **Six hundred Seventy-eight thousand One hundred DOLLARS (\$678,100.00)**, lawful money of the United States, for the payment of which sum well and truly to be made as provided in this Performance Bond.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to District for the performance of the Construction Contract, which is incorporated herein by reference.
2. If Contractor timely performs each and every obligation under the Construction Contract, including all Guarantee and/or warranty obligations, Surety and Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. Surety's obligation under this Performance Bond shall arise after:
 - 3.1 District has declared a Contractor Default and has notified Contractor and Surety at its address described in Paragraph 10 below that District has declared a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than seven days after receipt of such notice to discuss methods of performing all remaining obligations of Contractor pursuant to the Construction Contract; and
 - 3.2 District has agreed to pay any remaining Balance of the Agreement Price, as calculated under the terms of the Construction Contract, to Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the Construction Contract with District.
4. When District has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
 - 4.1 Arrange for Contractor, with consent of District, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to District for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by District and the contractor selected with District's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to District the

1 amount of damages as described in Paragraph 6 in excess of the Balance of the Agreement
2 Price, as calculated under the terms of the Construction Contract, incurred by District
3 resulting from Contractor's Default; or

4 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new Contractor
5 and with reasonable promptness under the circumstances:

6 .1 After investigation, determine the amount for which it may be liable to District and, as
7 soon as practicable after the amount is determined, tender payment thereof to
8 District; or

9 .2 Deny liability in whole or in part and notify District citing specific reasons therefore.

10
11 5. If Surety does not proceed as provided in Paragraph 4 within twenty days from receipt of the notice
12 described in paragraph 3.1 (whether or not a conference has been held pursuant to
13 paragraph 3.1), or such longer period upon which District and Surety may agree in writing, Surety
14 shall be deemed to be in default on this Bond. If Surety proceeds as provided in Subparagraph 4.4,
15 and District refuses the payment tendered or Surety has denied liability, in whole or in part, without
16 further notice District shall be entitled to enforce any remedy available to District.

17
18 6. After District has declared a Contractor Default, and if Surety elects to act under Subparagraph 4.1,
19 4.2, or 4.3 above, then the responsibilities of Surety to District shall not be greater than those of
20 Contractor under the Construction Contract, and the responsibilities of District to Surety shall not be
21 greater than those of the District under the Construction Contract. To the limit of the amount of this
22 Performance Bond, but subject to commitment by District of any remaining Balance of the
23 Agreement Price to mitigation of costs and damages on the Construction Contract, Surety is
24 obligated without duplication for:

25
26 6.1 The responsibilities of Contractor for correction of defective Work, materials and equipment
27 and completion of the Construction Contract, including all Guarantee and warranty
28 obligations;

29 6.2 Additional legal, design professional, construction management and delay costs resulting
30 from the Contractor's Default, and resulting from the actions or failure to act of Surety under
31 Paragraph 4; and

32 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract,
33 actual damages caused by delayed performance or non-performance of Contractor.

34
35 7. Surety shall not be liable to District or others for obligations of Contractor that are unrelated to the
36 Construction Contract, and the Balance of the Agreement Price shall not be reduced or set off on
37 account of any such unrelated obligations. No right of action shall accrue on this Bond to any person
38 or entity other than District or its heirs, executors, administrators or successors.

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40 8. Surety, for value received, hereby expressly agrees that no extension of time, change, modification,
41 alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the
42 Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this
43 bond; and it does hereby waive notice of any such extension of time, change, modification,
44 alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the
45 Contract, or to the work to be performed thereunder. Surety further waives the provisions of Section
46 2845 of the State of California Civil Code.

47 9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent
48 jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to
49 be taxed as an item of costs.

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51 10. Notice to Surety, District or Contractor shall be mailed or delivered to the address, or sent via
52 telecopier to the facsimile number, shown on the signature page.

1 11. DEFINITIONS
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- 3 11.1 Balance of the Agreement Price: The total amount payable by District to Contractor under
- 4 the Construction Contract after all proper adjustments have been made, including
- 5 allowance to Contractor of any amounts received or to be received by District in settlement
- 6 of insurance or other claims for damages to which Contractor is entitled, reduced by all valid
- 7 and proper payments made to or on behalf of Contractor under the Construction Contract.
- 8 11.2 Construction Contract: The agreement between the District and the Contractor identified
- 9 on the first page of this bond, including all Contract Documents and changes thereto.
- 10 11.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived,
- 11 to perform or otherwise to comply with the terms of the Construction Contract.

12
13 CONTRACTOR, as Principal

SURETY

14
15
16 By: _____

By: _____

17
18 Its: _____

Its: _____

19
20 Address: _____

Address: _____

21
22 Phone #: _____

Phone #: _____

23
24 Fax #: _____

Fax #: _____

25
26 Note: Notary Acknowledgement for Surety and
27 Surety's Power of Attorney must be attached
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Address for Owner Notices:
FAIR OAKS RECREATION AND PARK DISTRICT
Attn: Mike Aho
4150 Temescal Street, Fair Oaks, CA 95628

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