

Agenda Report

TO: CITY COUNCIL

DATE: October 19, 2009

FROM: CITY MANAGER

SUBJECT: AUTHORIZE THE ASSIGNMENT OF PURCHASE ORDER CONTRACT # 42997 FOR PURCHASE AND INSTALLATION OF THREE PREFABRICATED BUILDINGS FOR ROBINSON PARK IN AN AMOUNT NOT TO EXCEED \$536,013.50

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the project was subject to adequate environmental review in the Initial Study approved and the Negative Declaration adopted by the City Council, November 4, 2002, for The Robinson Park Master Plan, and that there are no changed circumstances or new information which would require further environmental review; and
2. Authorize the assignment of a purchase order from Modtech Inc. to Design Space Modular Buildings, Inc., in an amount not to exceed \$536,013.50 for the purchase of one prefabricated restroom building, one prefabricated restroom/concession building and one prefabricated storage building for installation at Robinson Park, without competitive bidding, pursuant to City Charter, Section 1002(H), contracts with other governmental entities or their contractors for labor, material, supplies or services.

BACKGROUND:

On April 4, 2009, the City Council approved the issuance of a purchase order to Modtech Holdings, Inc., in the amount of \$653,675 for the purchase of three prefabricated buildings for installation at Robinson Park. Since issuance of the P.O., Modtech notified the City of impending Chapter 11 bankruptcy proceedings. Based on coordination with the City Attorney's office, preliminary indications were that the bankruptcy proceedings would not result in adverse

material change to the contract beyond a "form" of contract assignment. Now that the process is complete, the City has been advised that the contract will be assigned to Design Space Modular Buildings, Inc., who Modtech listed as the subcontractor to provide fabrication and installation of the original contract. Subsequently staff has checked Design Space's references and received all pertinent Design Space company information.

Based on information to date, staff does not anticipate the assignment will result in a contract price increase to the City. However, the assignment process, which includes, but is not limited to acquisition of contract documents in Design Space's name and fabrication facility certification, will result in a one month schedule delay. In order to mitigate risk of execution and insure that the vendor will complete the work on time, staff has increased the Liquidated Damages to \$1000 per day, will perform weekly manufacturing site visits and require documentation to verify the fabrication process.

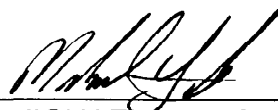
The proposed purchase order contract will be as follows:

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|-----------------------|-----------------------|
| Contract Base Cost | \$653,675.00 |
| Amount Paid To Date | <u>(\$117,661.50)</u> |
| Balance On Completion | \$536,013.50 |

FISCAL IMPACT:

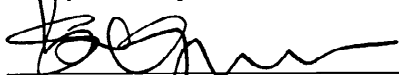
Sufficient funding in the form of certificates of participation and Residential Impact Fees is available in Capital Improvement Program budget account number 78034, Robinson Park – Implement Master Plan.

Respectfully submitted,



MICHAEL J. BECK
City Manager

Prepared by:



Segun Abegunrin,
Capital Projects Administrator

Approved by:



Martin Pastucha
Director of Public Works

**Disclosure Pursuant to the
City of Pasadena Taxpayer Protection Amendment of 2000
Pasadena City Charter, Article XVII**

Contractor/Organization hereby discloses its trustees, directors, partners, officers, and those with more than a 10% equity, participation, or revenue interest in Contractor/Organization, as follows:

(If printing, please print legibly. Use additional sheets as necessary.)

1. Contractor/Organization Name:

Modtech Holdings, Inc

2. Name(s) of trustees, directors, partners, officers of Contractor/Organization:

Dennis Shogren, President

3. Names of those with more than a 10% equity, participation or revenue interest in Contractor/Organization:

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Prepared by: Marissa Sanchez

Title: Project Manager

Date: 4/20/09

For office use only:

Contract/Transaction No. _____

If not a contract, type of transaction: _____

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(If printing, please print legibly. Use additional sheets as necessary.)

1. Contractor/Organization Name:

DESIGN SPACE MODULAR BUILDINGS, INC.

2. Name(s) of trustees, directors, partners, officers of Contractor/Organization:

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|------------------------------------------------------------|
| Paul J. McShane, President and Director |
| Anthony W. Esernia, Secretary and Director |
| Daniel L. McGregor, Vice President, Treasurer and Director |
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3. Names of those with more than a 10% equity, participation or revenue interest in Contractor/Organization: DESIGN SPACE MODULAR BUILDINGS, INC.

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|--------------------|
| Paul J. McShane |
| Anthony W. Esernia |
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Prepared by: Daniel L. McGregor

Title: Vice President, Treasurer, Director

Date: September 23, 2009

For office use only:

Contract/Transaction No. _____

If not a contract, type of transaction: _____