



CITY OF MENIFEE

SUBJECT: Agreement and Bid Award to Optima RPM, Inc. for the Central Park Amphitheater Project Construction

MEETING DATE: December 6, 2023

TO: Mayor and City Council

PREPARED BY: Nancy Rodriguez, Management Analyst

REVIEWED BY: Jonathan Nicks, Deputy City Manager

APPROVED BY: Rebekah Kramer, Acting City Manager

RECOMMENDED ACTION

1. Award bid and authorize the City Manager to execute a construction contract with Optima RPM, Inc. for the construction of the Central Park Amphitheater in the amount not-to-exceed \$5,133,427; and
2. Adopt four budget amendment resolutions for revenue and/or expenditure appropriation in the amount of \$1,841,667 from available ARP fund balance to Account 301-4555-58079 and 301-3742, \$905,535 from available fund balance in Fund 620 Local Parks (Account 620-4555-58079), \$219,088 to DIF Citywide Park (Account 522-4555-58079), and \$789,683 to General Fund (Account 100-4555-58079).

DISCUSSION

As part of the newly adopted Strategic Plan, the City has increased its focus on community engagement and social infrastructure by focusing on opportunities where residents can gather and engage with the community. Within the approved CIP fiscal year 2023/24 budget, approximately 75% of funds have been reserved for transport, traffic, and pavement projects within only a small amount reserved for Parks, Trails, and Recreation. On March 3, 2021, the City Council unanimously approved the conceptual design for the Central Park Amphitheater. The conceptual design presented was approved after years of progressive work from a simple shade structure to a sophisticated and premiere architectural centerpiece for the City. The amphitheater would be used for annual City events as well as to hold concerts and art shows by local musical groups and performers.

On June 2, 2021, the City Council authorized a professional services agreement with TYLin International ("TYLin") for the full design, engineering, and architectural services of the amphitheater. Taking into consideration the previously approved conceptual design, TYLin was

able to complete the comprehensive final design allowing staff to proceed with the construction phase of the project. The design included two separate and unique structures: the main shade structure and the rear storage and preparation area.

In order to move forward with the Project, there are three separate agreements for the City Council to take into consideration including construction, design support services and construction management services, beginning with the agreement with Optima RPM, Inc., for Project construction.

As required by the California Public Contract Code (CPCC), on August 11, 2023, a construction bid was released using the plans prepared by TYLin for the Capital Improvement Project (CIP) No. 19-15 Central Park Amenities Project ("Project"). The bid was advertised for 46 days with a bid opening date of August 11, 2023. The City received a total of four bids with only three bids being considered responsive. The nonresponsive bid did not meet all City requirements for the solicitation. Given that the lowest responsive bid amount was higher-than-expected and above the available budget, on September 6, 2023 the City Council approved the rejection of all four bids.

After the rejection of the bids, staff reviewed the bid documents and concluded that there were specific bid items listed that could be adjusted and/or removed to lower the cost of the project. These items included sound and lighting features that would not be integral to the construction of the structure. By re-bidding the Project, staff were hopeful that they would be able to obtain a cost closer to the project's approved budget.

On September 7, 2023, a Notice of Inviting Bid (NIB) was advertised for four weeks with an opening date of October 5, 2023. Taking into consideration the results of the previous NIB, the bid items were separated into two categories. The bidders were asked to provide pricing for the required items which are integral to the construction of the structure and pricing for the audio-visual items that were determined to be optional add-ons. The optional add-ons include features such as the Menifee sign, the loudspeakers, various lighting features, and the demolition of the existing curb-gutter.

The CPCC states that for public projects, the contract shall be awarded to the lowest responsive bidder. Five bids were received with four bids being considered responsive as shown in Table 1 on the following page. The nonresponsive bid did not meet all City requirements for the solicitation having had missed the required hardcopy documents.

Table 1 – Construction Bids Received (October 5, 2023)

Contractor	Total Cost for Required Items	Total Cost for Optional Items	Total Project Cost
Optima RPM, Inc.	\$5,133,427	\$662,808	\$5,796,235
ACT 1 Construction, Inc.	\$6,043,194	\$800,380	\$6,843,574
Pub Construction, Inc.	\$6,498,638	\$1,186,010	\$7,684,648
Environmental Construction, Inc.*	\$10,085,748	\$1,126,544	\$11,212,292
Kazoni, Inc.	\$14,450,133	\$1,460,835	\$15,910,968

*Non-responsive Bidder

Staff reviewed the submitted bid documents and determined that the lowest responsive bidder was Optima RPM, Inc. ("Optima"). Optima is a California-based company that holds an active registration with the Department of Industrial Relations (DIR). A reference check was conducted that provided a positive response.

Pursuant to the bid documents, bidders may file a bid protest within five business days from the release of the Notice of Intent. On October 12, 2023, Act 1 Construction, Inc. submitted a formal protest letter. At issue from the bid protest received was determining whether the lowest apparent bidder, Optima, failed to meet the "responsive" and/or "responsible requirements". Following review and analysis of the protest and consultation with legal counsel, the City determined that the concerns addressed in the protest were either not valid and/or would not result in the disqualification of Optima as a responsive and responsible bidder for the Project.

Act 1 Construction Inc. has continued to express concern outside of the bid protest process specifically related to the required licensing to perform the work required for the project. However, given that Optima in its bid has represented it retains the required licensing with in-house staff to complete the amphitheater project, as well as has completed several public works projects for various municipalities, including more recently the Lazy Creek Recreation Center Renovation and Expansion for the City of Menifee, staff remain resolute in the rejection of the bid protest.

The estimated timeline for project completion is March 2025. Table 2 below outlines the total cost for the Project, including the additional requested contract award amounts for construction management and design support services, detailed in separate staff reports.

Table 2 – Project Costs

	Contractor/ Consultant	Required Construction	Total w/ Optional Audio-Visual Items
Construction	Optima RPM, Inc.	\$5,133,427	\$5,796,235
Construction Management (15%)	Southstar	855,091	855,091
Design Support Services	TyLin	125,000	125,000
Total Project Cost		\$6,113,518	\$6,776,326

Staff is recommending moving forward with the required construction only, based on available funding. The optional Audio-Visual items such as the lighted logo, LED structure interior/exterior lighting, and an integrated sound system with mixing board, can be completed in a later phase when funding is available. This decision will not impact future events at Central Park as staff will continue to contract out for Audio-Visual services which is already a part of the Community Services Department adopted budget for FY 2023/24 and FY 2024/25.

The proposed Project has been determined to be Categorically Exempt under the California Environmental Quality Act (CEQA) and CEQA Guidelines, Section 15301 (Class 1 - Existing Facilities).

STRATEGIC PLAN OBJECTIVE

Community Engagement and Social Infrastructure

FISCAL IMPACT

The cost for the construction portion without the optional audio-visual items is estimated at \$5,646,770 including base construction costs and any other unforeseen costs which may arise during the project construction. The total anticipated cost for the project including construction, construction management, labor compliance, design support services, and other costs typically associated with a construction project is estimated at \$6,626,861. Due to the expansion of the project scope and the increase in costs associated with raw materials and labor in recent years, an additional \$3,755,973 is required to complete the needed funding for project construction. The funding required to support the remaining construction costs has been identified and summarized in Table 3 below.

Table 3 – Identified Project Funding

Fund	Account Number		Amount Requested
	From:	To:	
American Rescue Plan (ARP)	301-3742 (Uncommitted ARP Balance)	301-4555-58079	\$1,841,667
Quimby – Local Park	Available Fund Balance	620-4555-58079	905,535
DIF Citywide Parks (Fund 522)	Available Fund Balance	522-4555-58079	219,088
General Fund*	Available Fund Balance*	100-4555-58079	789,683
		Total	\$3,755,973

**Use of reimbursement/Assigned Fund Balance to General Fund and DIF Citywide Parks (Fund 522) from 1x reimbursements of CSA 145 Quimby Fees for eligible CIP 19-16: Lazy Creek Recreation Center costs.*

The City received approximately \$13.2 million in ARP funds eligible to be used for a range of expenses incurred between March 3, 2021 through December 31, 2024. The approval of the BAR would include an appropriation of additional funding in the total amount of \$1,841,667 from available ARP funds as a one-time capital project. This would ensure the grant funds are expended within the required timeframe while being allocated for public improvements that would not require additional future funding.

General Fund and DIF Citywide Parks Funds are available for allocation to the Project with the acceptance of the one-time CSA 145 Quimby fees from the County of Riverside and the reimbursement of the General Fund and DIF Citywide Parks Fund for the expenses associated with the Lazy Creek Recreation Center, an eligible CSA 145 facility.

Additionally, the identified funding in Fund 620 Local Parks (Quimby) are funds paid for by developers in lieu of dedicating parkland in order to meet their Quimby Act requirements and can only be used towards the creation or improvement of park facilities and amenities. Central Park has been identified as a citywide park amenity due to the centralized location, size of the park, and park amenities. The use of these funds for this project would improve the park program offerings as a benefit to all Menifee residents.

ATTACHMENTS

1. Optima RPM, Inc. Agreement
2. ACT 1 Construction Protest Letter
3. Bid Protest Response Letter
4. Budget Amendment Resolution Fund 301
5. Budget Amendment Resolution Fund 620
6. Budget Amendment Resolution Fund 522
7. Budget Amendment Resolution Fund 100