

RESOLUTION NO. 17-035

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (LRA) AWARDED THE BID OF D.L. PORTER CONSTRUCTORS, INC. FOR TRUMAN WATERFRONT PARK AMPHITHEATER CONSTRUCTION, IN ACCORDANCE WITH THE TERMS SPECIFIED IN ITB 17-009, IN AN AMOUNT NOT TO EXCEED \$3,664,721.00, INCLUSIVE OF UTILITY FEE ALLOCATION AND ADDITIVE ALTERNATES 4, 5, 6 AND 7; APPROVING THE USE OF AN OWNER DIRECT PURCHASE PROGRAM TO ELIMINATE SALES TAX FEES ON SELECTED PROJECT MATERIALS FOR CONSTRUCTION OF TRUMAN WATERFRONT AMPHITHEATER, IN CONFORMANCE WITH TERMS CONTAINED IN THE PROJECT CONTRACT; AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT IN SUBSTANTIAL CONFORMANCE WITH THE CONTRACT DOCUMENTS CONTAINED IN THE BID PACKAGE UPON ADVICE AND CONSENT OF THE CITY ATTORNEY; AUTHORIZING ANY NECESSARY BUDGET TRANSFERS AND AMENDMENTS; DIRECTING THE CITY MANAGER TO DEVELOP A TRANSPORTATION AND MANAGEMENT PLAN FOR THE USE OF THE AMPHITHEATER; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on December 14, 2016, bids were opened in response to ITB #17-009, for Truman Waterfront Park Amphitheater Construction, and the bids were determined to be responsive; and

WHEREAS, the bid submitted by D.L. Porter Constructors, Inc. was the lowest responsive bid, and upon staff review, and consideration of bid alternates, it was recommended that the contract be awarded to D.L. Porter Constructors, Inc.; and

WHEREAS, City staff, in discussion with the contractor for the Truman Waterfront Amphitheater, has determined that use of an Owner Direct Purchase program, pursuant to Section 2-797(4) of the Code of Ordinances, could result in substantial project cost savings, by eliminating sales tax costs on selected project materials.

NOW, THEREFORE, BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1: That the bid of D.L. Porter Constructors, Inc. for Truman Waterfront Park Amphitheater Construction, in accordance with the terms specified in ITB #17-009, is hereby awarded in an amount not to exceed \$3,664,721.00 inclusive of Utility Fee Allowance and additive alternates 4, 5, 6 and 7.

Section 2: That the use of an Owner Direct Purchase program for selected project materials for construction of Truman Waterfront Amphitheater is hereby approved in conformance with the contract between the City and D.L. Porter Constructors, Inc.

Section 3: That the City Manager is authorized to enter into a contract in substantial conformance with the bid documents, upon the advice and consent of the City Attorney.

Section 4: That funds for the project are allocated in account #101-4303-543-6300, Project #TR1502 (Truman Waterfront Amphitheater). Any necessary budget transfers or amendments are hereby authorized. (Reimbursement of up to 50% of design and construction fees are expected through Tourist Development Council Grant Contract #1212.)

Section 5: That the City Manager shall develop a transportation and management plan in conjunction with the construction.

Section 6: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Authority.

Passed and adopted by the Naval Properties Local Redevelopment Authority at a meeting held this 18 day of January, 2017.

Authenticated by the presiding officer and Clerk of the Authority on January 30, 2017.

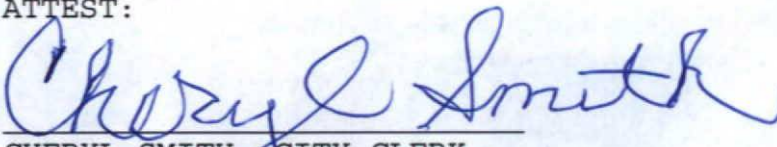
Filed with the Clerk January 30, 2017.

Chairman Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>No</u>
Commissioner Billy Wardlow	<u>No</u>
Commissioner Jimmy Weekley	<u>Yes</u>



CRAIG CATES, CHAIRMAN

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3867

NOTICE TO PROCEED

Date: January 30, 2017

TO: Marshal White
D.L. Porter Constructors, Inc.
203 Southard St, Suite 209
Key West, FL 33040

PROJECT: Truman Waterfront Amphitheater

PROJECT NO: TR1502

Dear Mr. White:

D.L. Porter Constructors, Inc. (Porter) is hereby notified to commence work on the above referenced project no later than February 3rd, 2017. Work will be performed in accordance with the Agreement between Porter and the City of Key West, Florida dated January 30, 2017. All work must be completed on or before September 30th, 2017.

Very truly yours,

A handwritten signature in blue ink, appearing to read "L. Kreed Howell", is written over a horizontal line.

L. Kreed Howell
Senior Construction Manager

Receipt of this NOTICE TO PROCEED is hereby acknowledged this, 30th day of
January, 2017

CONTRACTOR: D. L. Porter Constructors, Inc.

BY: A handwritten signature in blue ink, likely representing the contractor, is written over a horizontal line.

TITLE: President DATE: 1/30/2017

Please sign and email one copy of this Notice to Proceed Acknowledgment to the Project Manager at lhowell@cityofkeywest-fl.gov and also return the original signed copy.

Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.

CONTRACT

This Contract, made and entered into this 30TH day of JANUARY 2017,

by and between the City of Key West, hereinafter called the "Owner", and _____

D. L. Porter Constructors, Inc.

hereinafter called the "Contractor";

WITNESSETH:

The Contractor, in consideration of the sum to be paid him by the Owner and of the covenants and agreements herein contained, hereby agrees at his own proper cost and expense to do all the work and furnish all the materials, tools, labor, and all appliances, machinery, and appurtenances for ITB No. 17-009 TRUMAN WATERFRONT PARK AMPHITHEATER, Key West, Florida to the extent of the Proposal made by the Contractor, dated the December 14th day of 2016, all in full compliance with the Contract Documents referred to herein.

The CONTRACT DOCUMENTS, including the signed copy of the PROPOSAL, CONTRACT FORMS, PERFORMANCE & PAYMENT BONDS AND SCOPE OF WORK.

In consideration of the performance of the work as set forth in these Contract Documents, the Owner agrees to pay to the Contractor the amount bid in the Proposal as adjusted in accordance with the Contract Documents, or as otherwise herein provided, and to make such payments in the manner and at the times provided in the Contract Documents.

The Contractor agrees to complete ALL work and **provide final** invoice submitted to the CITY no later than September 30, 2017.

The Contractor agrees to accept as full payment hereunder the amounts computed as determined by the Contract Documents and based on the said BID.

The Contractor agrees to remedy all defects appearing in the work or developing in the materials furnished and the workmanship performed under this Contract during the warranty period after the date of final acceptance of the work by the Owner, and further agrees to indemnify and save the Owner harmless from any costs encountered in remedying such defects.

It is agreed that the Contract, based upon the BID, shall be fully complete within the stated number of consecutive calendar days from the date the Notice to Proceed is issued.

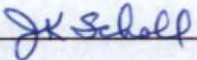
In the event the Contractor fails to complete the work within the time limit or extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages for BASE BID shall be paid at a rate of \$1,000.00 per day. Sundays and legal holidays shall be included in determining days in default.

This contract will automatically expire upon completion of the project. Contractors warranty obligations remain in effect.

IN WITNESS WHEREOF, we, the parties hereto, each herewith subscribe the same this

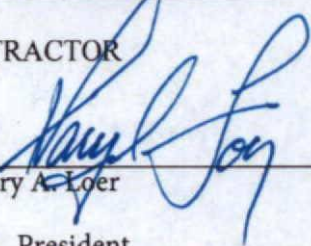
30TH day of JANUARY, A.D., 20 17.

CITY OF KEY WEST

By 

Title CITY MANAGER

CONTRACTOR

By 
Gary A. Loer

Title President



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

EXECUTIVE SUMMARY

Date: December 28, 2016 – Rev. January 9, 2017

To: Jim Scholl, City Manager

From: James Bouquet, P.E., Director of Engineering

Cc: Greg Veliz, Assistant City Manager
Mark Finigan, Finance Director

Subject: Approve the Award of ITB#17-009 *Truman Waterfront Park Amphitheater* construction to D.L. Porter Constructors, Inc. in the total amount of \$3,664,721.00.

ACTION STATEMENT

Approve a contract award of \$3,664,721.00 to D.L. Porter Constructors, Inc. for construction of the Truman Waterfront Park Amphitheater including Utility Fee Allowance and accepting Additive Alternates Nos. 4, 5, 6 and 7. Authorize the City Manager to execute this agreement and any necessary budget transfers/amendments. Approve the use of Owner Direct Purchase program via Key West Code Section 2-797 (4) Exempt Contractual Services to eliminate sales tax fee on selected materials.

BACKGROUND

The City of Key West Naval Properties Local Redevelopment Authority (LRA) Resolution 15-344 Bermello Ajamil and Partners, Inc. (BA) to design and prepare construction drawings for bidding of the Truman Waterfront Amphitheater. The construction project was bid during November-December 2016 as ITB# 17-009 *Truman Waterfront Park Amphitheater* including Addenda 1 and 2. Bids were opened on December 14, 2016 and the responsive bidders consisted of:

MEMORANDUM

Biltmore Construction Co., Inc.
Burke Construction Group, Inc.
Charley Toppino & Sons, Inc. (Toppino)
D.N. Higgins, Constructors, Inc.
Pedro Falcon Contractors, Inc.
West Construction, Inc.

Respective bid proposals and bid tabulation are attached.

As indicated in the bid tabulation, D.L. Porter Constructors, Inc. (Porter) was the apparent low bidder, with Charley Toppino & Sons, Inc. (Toppino) as the second low bidder. Following review of the received bids against available funding, staff recommends contract award to Porter and acceptance of the following:

Utility Fee Allowance:	\$140,000.00
Add Alternate No. 4 - Sleeve for future gas line within Navy easement:	\$ 4,500.00
Add Alternate No. 5 – Restroom facility:	\$302,993.00
Add Alternate No. 5 – Builders Risk Insurance Flood Endorsement:	\$ 3,500.00
Add Alternate No. 6 – Builders Risk Insurance Wind Endorsement:	\$ 3,500.00

Acceptance of the Porter lump sum base bid of \$3,190,228.00, Utility Allowance (\$140,000.00) above Bid Alternates (\$314,493.00) results in a total contract award amount of \$3,664,721.00. Toppino's corresponding bid including these accepted bid alternatives exceeded the Porter bid by approximately 12%.

Acceptance of Deductive Alternate Nos. 1, 2 and 3 are not recommended as acceptance would result in a lower quality and less durable construction materials.

Addendum No. 2 includes procedures for the Owner Direct Purchase (ODP) of materials and services. The ODP program eliminates sales tax fees on selected project materials for construction of the Amphitheatre complex by allowing the City, an entity exempt from sales tax as per State statute, to purchase certain materials.

A Contingency and Unforeseen Condition Allowance of \$319,022.80 is funded to address previously unidentified project scope changes (contingency) and unforeseen conditions/conflicts (e.g., unsuitable soils, buried structures, petroleum contamination, underground utilities) encountered during construction. While not included in the contract award amount, these funds will be available and allocated (per City purchasing ordinances) as required to complete the project.

The total lump sum cost does not include procurement of up to 500 semi-permanent seats. Seats will be procured either directly by the City or through the contractor via ODP.

PURPOSE AND JUSTIFICATION

Development of the Truman Waterfront Property has been a priority of the City of Key West for over 15 years. City Commission Resolutions 12-129 and 12-285 accepted recommendations and a Master Plan for the Truman Waterfront Property process. Resolution #12-065 approved finalizing the Master Plan and a Major Development Agreement for the Truman Waterfront Park. Approval of the current resolution before the LRA will facilitate construction of the amphitheater component of the Master Plan including, but not limited to, covered stage, hard surface for 500 semi-permanent seats, grass seating/viewing berm, parking, walkways and utilities.

Implementation of the ODP program will reduce overall funding required for this project.

This resolution supports Key West Strategic Plan Infrastructure Goal #3, *Parks and recreation areas are accessible to all residents and visitors*, and Culture Goals #1, 2 and 3.

FINANCIAL

The project lump sum cost of \$3,664,721.00 is funded from budget account 101-4303-543-6300, Project # TR1502 (Truman Waterfront Amphitheater. Full funding is currently available for construction in the FY2016/17 budget.

Following completion of construction and acceptance of the project by the Tourist Development Council (TDC), 50% of the design and construction fees up to \$2,000,000 are eligible for reimbursement under TDC grant Contract #1212.

The total contract award cost of \$3,664,721.00 compares favorably with the construction estimate of \$3,621,740 provided by RIBU.S. Cost in June 2016 (see attached).

RECOMMENDATION

Engineering staff recommending approving a contract award of \$3,664,721.00 to D.L. Porter Constructors, Inc. for construction of the Truman Waterfront Park Amphitheater Base Bid including Utility Fee Allowance and Additive Alternates Nos. 4, 5, 6 and 7, and authorizing the City Manager to execute this agreement and any necessary budget transfers/amendments. Staff also recommends approving the use of Owner Direct Purchase program via Key West Code Section 2-797 (4) Exempt Contractual Services to eliminate sales tax fee on selected materials.



Bermello Ajamil & Partners, Inc.

Architecture
Engineering
Planning
Interior Design
Landscape Architecture
Public Information

December 22nd 2016

Mr. James Bouquet
City Engineer / Engineering Services
City of Key West
3140 Flagler Avenue Key West, FL 33040
E-mail: jbouquet@cityofkeywest-fl.gov

Sent via email / PDF format

RE: Truman Waterfront Park Amphitheater - Review of general contractor bid proposals / recommendation of award

Dear Jim,

Bermello Ajamil & Partners, Inc. (B&A) has reviewed all documentation provided by the city regarding the general contractor bid proposal packages for the construction of the Truman Waterfront Park Amphitheater, ITB 17-009. Based on our evaluation and review, B&A recommends the city award this project to D.L. Porter Constructors Inc.

As you know all too well, this project has been a labor of love for all of us for over a year now and we are truly thrilled that construction will soon commence. We believe this project will be a shining star within Truman Waterfront Park and become a unique destination for a wide range of great venues and events for residents and tourists in Key West for years to come.

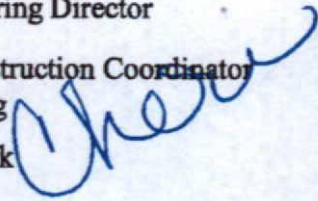
Sincerely,

SCOTT A BAKOS

Partner | Design | Project Management
900 SE 3rd Avenue, Suite 203
Fort Lauderdale, FL 33316
305.989.9953 – iPhone 954.627.5109 – Direct Office

INTEROFFICE MEMORANDUM

To: Jim Bouquet, Engineering Director
CC: Terrence Justice, Construction Coordinator
Sue Snider, Purchasing
From: Cheri Smith, City Clerk
Date: December 14, 2016
Subject: **TRUMAN WATERFRONT PARK AMPHITHEATER; BID 17-009**



The following bids were opened Wednesday, December 16, 2016 at 3:30 p.m. in response to the above referenced project.

- | | | |
|----|---|-----------------------|
| 1. | Biltmore Construction Co., Inc.
1055 Ponce de Leon Blvd.,
Belleair, FL 33756 | Total: \$5,558,607.00 |
| 2. | Burke Construction Group, Inc.
10145 NW 19 TH Street
Doral, FL 33172 | Total: \$4,888,803.00 |
| 3. | Charley Toppino & Sons, Inc.
US Hwy #1
Key West, FL 33040 | Total: \$4,080,126.30 |
| 4. | D.L. Porter Constructors, Inc.
6574 Palmer Park Circle
Sarasota, FL 34238 | Total: \$3,642,995.36 |
| 5. | Pedro Falcon Contractors, Inc.
31160 Avenue C
Big Pine Key, FL 33043 | Total: \$4,543,171.00 |
| 6. | West Construction, Inc.
318 South Dixie Highway
Suite 4-5
Lake Worth, FL 33460 | Total: \$4,641,640.00 |

Bid Matrix ITB 17-009 Truman Waterfront Amphitheater December 14, 2016

Bid Component	Bidders					
	DL Porter	Toppino	Biltmore	Burke	Pedro Falcon	West
Base Bid (1)	\$ 3,190,228.00	\$ 3,581,933.00	\$ 4,926,006.00	\$ 4,317,094.00	\$ 4,002,883.00	\$ 4,092,400.00
10% Contingency (2)	319,022.80	358,193.30	492,601.00	431,709.00	400,288.00	409,240.00
Utility Fee Allowance (3)	140,000.00	140,000.00	140,000.00	140,000.00	140,000.00	140,000.00
Total Base Bid 1+2+3 (4)	\$ 3,649,250.80	\$ 4,080,126.30	\$ 5,558,607.00	\$ 4,888,803.00	\$ 4,543,171.00	\$ 4,641,640.00
<u>Bid Alternates (Recommended Acceptance Highlighted)</u>						
Alt 1 Stucco in lieu of Alucobond	-40,775.00	-32,500.00	-101,117.00	-40,275.00	-52,530.00	-91,736.00
Alt 2 Chain Link in lieu of Aluminum Ornamental Fencing	32,800.00	-1,500.00	4,079.00	-4,839.00	-5,848.00	34,400.00
Alt 3 Asphalt in lieu of Concrete @ Loading & Secure Parking	-25,000.00	-16,500.00	-33,927.00	-35,306.00	-26,661.00	-10,000.00
Alt 4 Gas Line Sleeve for Navy Diesel Line	4,500.00	13,975.00	32,430.00	24,877.00	10,320.00	25,200.00
Alt 5 Restroom	302,993.00	342,500.00	325,000.00	280,076.00	369,084.00	282,615.00
Alt 6 Flood Risk Endorsement on Builder's Risk	3,500.00	15,000.00	64,756.00	3,245.00	41,855.00	4,000.00
Alt 7 Wind Risk Endorsement on Builder's Risk	3,500.00	9,500.00	50,525.00	2,163.00	46,006.00	4,000.00
Grand Total Base Bid plus Selected Bid Alternates	\$ 3,963,743.80	\$ 4,461,101.30	\$ 6,031,318.00	\$ 5,199,164.00	\$ 5,010,436.00	\$ 4,957,455.00
Deviation from Apparent Low Bid (%)		12.5%	52.2%	31.2%	26.4%	25.1%

<u>Bid Proposal Required Supplements:</u>	<u>DL Porter</u>	<u>Toppino</u>	<u>Biltmore</u>	<u>Burke</u>	<u>Pedro Falcon</u>	<u>West</u>
Executed Proposal -	<input checked="" type="checkbox"/> Note 1	<input checked="" type="checkbox"/> Note 2	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5% Bid Security -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Security Bond Power of Attorney -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Addendum 1 -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Addendum 2 -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Schedule of Values -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Project Experience -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	✗	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Subcontractor Listing -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Anti-Kickback Affidavit -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Public Entity Crimes Form -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Indemnification Form -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Local Vendor Certification -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	✗
Domestic Partnership Affidavit -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Cone of Silence Affidavit -	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Note 3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Notes:

1. Incorrect 10% Allowance was corrected and resubmitted by DL Porter per City request.
2. Incorrect amount in words was corrected and resubmitted by Toppino per City request.
3. No signatures on these electronically submitted forms from Burke Construction Group.