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John Goddard
Director

Office of Contract Administration

WILLIAM C. THOMPSON, JR.
COMPTROLLER

June 23, 2008

Ms. Mary Pazan
Agency Chief Contracting Officer
City of New York
Department of Parks and Recreation
Flushing Meadows, Olmsted Center, Room 59
Corona, NY 11368

RE: Mark K. Morrison Associates LTD, Contract No. 20080025383, OCA No. 0000896858,
Design Services for Reconstruction of Highland Park

Dear Ms Pazan:

On May 29, 2008, the Department of Parks and Recreation (DPR) submitted the above referenced contract action between DPR and Mark K. Morrison Associates LTD (MMA) to the Comptroller's Office for registration. The \$3,336,960 task order was awarded via the city's Multiple Award process and is to provide landscape design services for the reconstruction of Highland Park at the Ridgewood Reservoir Site in the Borough of Queens. The task order is being returned to allow additional time for your agency to respond to our concerns pertaining to potential scope changes due to environmental review uncertainties and for administrative issues as detailed below.

Also of concern is MMA's proposed option for partially or completely filling Basin No. 3, which if completely filled, would require 27,500 large truckloads of fill to be transported through the adjacent neighborhoods, approximately equivalent to 1.0 million cubic yards of fill. Even if the option for partially filling in Basin No. 3 was chosen, there would still be a need for 11,700 large truckloads of dirt to be transported to the site. Either of these options would have significant negative impacts to the areas surrounding the park, which will have to bear the brunt of the noise, emissions and traffic disruptions for many years. For comparison purposes, it took six years to bring 1.7 million cubic yards of fill to Ferry Point Park in the Bronx, which had good access from a number of highways.

The Project Specific Proposal documents state that DPR was in the process of meeting with regulatory agencies regarding environmental assessment issues at the site and requested that an allowance for an Environmental Assessment Statement (EAS) be included as a separate fee in any proposal. Such an environmental review allows for public evaluation and comment and the first filing is an EAS. The EAS information assists DPR in determining whether adverse effects on the environment may be significant enough to warrant further analysis via an Environmental Impact Statement (EIS). In that event, possible alternatives to the vendor's proposal will likely be required to mitigate or eliminate potential significant environmental impacts of the proposal.

Similarly, any number of findings from oversight agencies, the EAS, subsequent reviews required by a future EIS, if necessary, and from permit applications, would significantly affect the proposed design. In particular, the Design Intent/Technical Approach section of MMA's proposal indicates that significant oversight review is yet to be done. The proposal states that "wetlands/waters regulated by the U.S. Army Corp of Engineers (USACE) may be present" and "If the proposed park improvements require activities in wetlands/waters regulated by USACE, we will prepare and submit a Joint Permit Application for a USACE Section 404 Permit and a NYSDEC Section 401 Water Quality Certification".

Moreover, the vendor was selected from among three participants through a quasi-competitive process as stipulated in its contract. We are concerned, therefore, that changes to the design that may arise from the environmental and public assessments may so significantly impact the vendor's proposal as to make DPR's evaluation of the proposals and basis of selection open to discussion .


Given the sensitive ecological nature of the location, we strongly believe that the environmental assessment process must have maximum transparency. In that light, we are also concerned that it may be a conflict of interest to have the EAS vendor be a subcontractor to the architect, who has a vested interest in pursuing the construction of a \$38 million project.

Given the above concerns, established procurement practices dictate that DPR should not have solicited proposals without a full understanding of all the issues pertaining to any new development of the park.

Also, in the event that DPR wishes to re-submit the task order, in addition to addressing the above, please provide documentation that shows that the winning consultant's proposal is made a part of the actual agreement, thereby, becoming the contractual scope of work for the task order. In addition, insurance documentation required by the contract was not included in DPR's submission.

If you have any questions or comments regarding this matter, please feel free to contact me or Stephen Malusa, at 212-669-2082.

Yours truly,



John Goddard

cc: John Graham
Marla Simpson (MOCS)