

**Council Meeting: February 12, 2008**

SUBJECT: Award of Bid No. F0710-40 for Tee Renovation at the Sunnyvale Golf Course and Approval of Budget Modification No. 31

REPORT IN BRIEF

Approval is requested for the award of a contract in the amount of \$342,000 to Colony Landscape and Maintenance, Inc., of Alviso to renovate all eighteen tee complexes at the Sunnyvale Golf Course for the Department of Parks and Recreation Golf Division. Approval is also requested for Budget Modification No. 31 in the amount of \$94,000 to provide additional funding for this project.

BACKGROUND

This project consists of the renovation of all eighteen tee complexes at the Sunnyvale Golf Course, 605 Macara Avenue. The scope of work requires the contractor to rototill, remove and dispose of existing turf on all tees after the irrigation system is tied off and sprinkler heads removed by City staff. The tee locations will be rough shaped, graded, covered with new planting mix and re-sodded. The contractor will also be required to remove and replace the concrete cart paths on Holes 5 and 8.

DISCUSSION

Bid specifications were prepared by Golf and Purchasing Division staff. The bid documents were directly mailed to fifteen golf course landscape contractors, distributed to Bay Area Builder's Exchanges and broadcast to other potential contractors through the Onvia DemandStar public procurement network. Twenty-two contractors requested bid documents.

Sealed bids were publicly opened on November 21, 2007. Seven responsive bids were received.

<u>Bidder</u>	<u>Total Bid</u>
Engineer's Estimate	\$380,000
Colony Landscape & Maintenance, Inc., of Alviso, CA	\$342,000
Key Turf Construction, Inc., of San Marcos, CA	\$348,300
Larson Golf, Inc., of American Canyon, CA	\$368,000
Oliphant Golf, Inc., of Waunakee, WI	\$375,500
ValleyCrest Landscape Development, Inc., of Pleasanton, CA	\$377,000
Wadsworth Golf Construction Company of Buckeye, AZ	\$413,970
Niebur Golf, Inc., of Colorado Springs, CO	\$575,000

Staff recommends acceptance of the bid from Colony Landscape, the lowest responsive and responsible bidder.

A determination was made that this project will have no significant impact on the environment in accordance with CEQA guidelines for categorically exempt projects.

FISCAL IMPACT

The total amount of the contract will not exceed \$342,000. Funds are available in Infrastructure Project No. 820361 - Golf Course Tee Grounds Renewal. There are two additional fiscal issues to consider, however, in relation to this project.

First, the City has agreed to provide the turf and tee mix (the soil medium for the tee box grass consisting of fine sand mixed with organic matter) for this project. Staff has determined that it is more cost effective for the City to purchase this material directly as opposed to purchasing it through the contractor as part of the bid specifications. Staff estimates saving approximately 10% of the cost of the turf and tee mix by purchasing it in this manner. Staff estimates a total of approximately \$94,000 for the turf and tee mix, which cannot be funded within the existing FY 2007/2008 appropriation for this project. To fund this expense, staff recommends appropriating funds which have been programmed in FY 2008/2009 for Golf Course Tee Grounds Renewal into FY 2007/2008. In order to do this, funds must first be appropriated from the Infrastructure Renovation and Replacement Fund reserve. Budget Modification No. 31 has been prepared to appropriate \$94,000 from the Infrastructure Renovation and Replacement Fund Reserve to Project 820361 – Golf Course Tee Grounds Renewal. To ensure there is no net impact to the fund’s reserve as a result of Budget Modification No. 31, \$94,000 will be removed from the FY 2008/2009 appropriation for this project and returned to the fund’s reserve during the development of the FY 2008/2009 Recommended Budget.

BUDGET MODIFICATION NO. 31
FISCAL YEAR 2007-2008

	Current	Increase (Decrease)	Revised
Infrastructure Renovation and Replacement Fund/Community Recreation Sub-Fund			
<u>Expenditures:</u>			
Project 820361 – Golf Course Tee Grounds Renewal	\$351,241	\$94,000	\$445,241
 <u>Reserves:</u>			
Infrastructure Reserve	\$730,908	(\$94,000)	\$636,908

The second issue is the impact this project will have on revenues. While complete closure of the golf course is not anticipated during the completion of this project, golf customers will be inconvenienced with tees that are temporarily closed and with a course that is temporarily shortened. It is estimated that during the project, which is anticipated to take eight weeks, the number of rounds played will be down 20%. This impact to revenues has already been incorporated into revenue projections for the FY 2007/2008 Adopted Budget.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

RECOMMENDATION

It is recommended that Council:

1. Award a contract, in substantially the same form as the attached draft and in an amount not to exceed \$342,000, to Colony Landscape and Maintenance, Inc., for tee renovation at the Sunnyvale Golf Course.
2. Approve Budget Modification No. 31 in the amount of \$94,000 to provide additional funding for City staff to purchase turf and tee mix directly as required for the project.

Reviewed by:

Mary J. Bradley, Director, Finance
Prepared by: David Gakle, Principal Buyer

Reviewed by:

David A. Lewis
Director, Parks and Recreation

Approved by:

Amy Chan
City Manager

Attachment
Draft Contract

**DRAFT
CONTRACT
BETWEEN CITY OF SUNNYVALE AND COLONY LANDSCAPE & MAINTENANCE, INC.,
FOR COMPLETION OF THE WORK KNOWN AS
THE GOLF COURSE TEE RENOVATION PROJECT**

THIS CONTRACT, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation of the State of California ("CITY"), and COLONY LANDSCAPE & MAINTENANCE, INC., a California corporation ("CONTRACTOR").

RECITALS:

The parties to this Contract have mutually covenanted and agreed, as follows:

1. Contract Documents. The complete Contract consists of the following documents which are incorporated by reference: Invitation for Bids No. F0710-40, including one Addendum; a Bid Form completed by CONTRACTOR; and a Performance Bond and Payment Bond. The documents comprising the complete contract are collectively referred to as the Contract Documents. Any and all obligations of CITY and CONTRACTOR are fully set forth and described in the Contract Documents.
2. The Work. CONTRACTOR agrees to furnish all labor, supervision, methods and processes, implements, tools, machinery, equipment, transportation and materials necessary to complete the work known as the Golf Course Tee Renovation Project in a good and workmanlike manner and in strict conformity with the Contract Documents.
3. Contract Price. CITY agrees to pay and CONTRACTOR agrees to accept in full payment for the work above agreed to be done the lump sum of Three Hundred Forty-Two Thousand and no/100 Dollars (\$342,000.00).
4. Permits; Compliance with Law. CONTRACTOR shall, at its own expense, obtain all necessary permits and licenses for the completion of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety.
5. Extra or Additional Work and Changes. At any time during the progress of the work, CITY shall have the right at any time to request alterations or additions to, or deviations or omissions from the Contract Documents; and the contract price shall be adjusted by a fair and reasonable valuation, agreed to in writing by CITY and CONTRACTOR. Contractor shall perform no extra or additional work or alter or deviate from the work specified herein unless agreed in writing by City. Extra work to which City has not agreed in advance in writing will not be compensated by City.
6. Time for Completion. All work under this contract shall be completed before the expiration of ninety (90) calendar days from the date specified in the Notice to Proceed.

The time of completion shall be extended for such reasonable time as CITY may decide if CITY authorizes the delay or if the delay is caused by the acts or neglect of CITY or its employees or those under it by contract or otherwise; by changes ordered in the work; by strikes, lockouts by others, fire,

unusual delay in transportation, unavoidable casualties or any causes beyond CONTRACTOR's control; or by any cause which CITY decides justifies the delay.

This provision does not exclude the recovery of damages for delay by either party under other provisions.

7. Termination. CITY may provide written notice to CONTRACTOR and its surety of CITY's intention to terminate the contract under one or more of the following conditions:

- A. CONTRACTOR is adjudged a bankrupt;
- B. CONTRACTOR makeS a general assignment for the benefit of creditors;
- C. A receiver is appointed on account of insolvency;
- D. CONTRACTOR or any subcontractors violate any of the provisions of the Contract.

The notice shall contain the reason(s) for CITY's intention to terminate the Contract. CONTRACTOR shall be given ten (10) days after serving such notice to cease the violation described in the notice or to make satisfactory arrangements for correction of the violation. Otherwise, the Contract shall cease and terminate at the end of the ten (10) day period.

In the event of any such termination, CITY shall immediately serve written notice thereof upon surety and CONTRACTOR; and the surety shall have the right to take over and perform the contract, provided that the surety informs CITY, in writing, of its intent to do so within fifteen (15) days after it was served the notice of termination or that the surety commences performance of the contract within thirty (30) days after it was served the notice of termination. Should the surety fail to take one or both of these actions, CITY may take over and complete the work by contract or by any other method it deems advisable, for the account and at the expense of CONTRACTOR. CONTRACTOR and its surety shall be liable to CITY for any cost incurred in the completion of the work which exceeds the original contract price. In such event, CITY may, without liability for so doing, take possession of and use such materials, equipment and other property belonging to CONTRACTOR as may be on the site and necessary for the performance of the work.

8. Notices

All notices required by the Contract shall be in writing, and shall be personally delivered or sent by first class mail, postage prepaid or by commercial courier, addressed as follows:

To CITY: Gary Carls, Golf Operations Manager
Parks and Recreation Department Golf Division
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONTRACTOR: COLONY LANDSCAPE & MAINTENANCE, INC.
Attn: Edward Ott, President
4911 Spreckles Avenue
Alviso, CA 95002

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered.

Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

9. Assignment. Neither party shall assign or sublet any portion of the Contract without the prior written consent of the other party.

10. Compliance with Specifications of Materials. CONTRACTOR shall provide only those materials, processes or articles specified in the Contract Documents unless CITY agrees in writing to some other material, process or article offered by CONTRACTOR which is equal in all respects to the one specified.

11. Contract Security. CONTRACTOR shall furnish a surety bond in an amount equal to 100 percent of the contract price as security for the faithful performance of the Contract. CONTRACTOR shall also furnish a separate surety bond in an amount equal to 100 percent of the contract price as security for the payment of all persons furnishing materials used in the performance of work in connection with the Contract, for the payment of amounts due under the Unemployment Insurance Code with respect to work or labor in connection with the Contract, and for the payment of reasonable attorney's fees to be fixed by the court should suit be brought upon the bond.

12. Insurance.

CONTRACTOR shall take out and maintain throughout the life of the Contract, at its own expense and from an admitted insurer authorized to operate in California, Workers' Compensation and Employer's Liability Insurance for its employees. The amount of insurance shall not be less than \$1,000,000 per accident for bodily injury or disease.

CONTRACTOR shall take out and maintain throughout the life of the Contract, at its own expense and from an admitted insurer authorized to operate in California, such Commercial General Liability Insurance as shall protect CONTRACTOR, CITY, its officials, officers, directors, employees, and agents from claims which may arise from work performed under the Contract, whether such work is performed by CONTRACTOR, by CITY, its officials, officers, directors, employees, or agents or by anyone directly or indirectly employed by either. The amount of insurance shall not be less than the following: Single limit coverage applying to bodily and personal injury liability and property damage - \$1,000,000.

The liability insurance shall include, but shall not be limited to:

- Protection against claims arising from bodily and personal injury and damage to property, resulting from CONTRACTOR's or CITY's operations, and use of owned or non-owned automobiles.
- Coverage on an "occurrence" basis.
- Broad form property damage liability. Deductible shall not exceed \$5000 without prior written approval of the CITY.
- Notice of cancellation to City at least thirty (30) days prior to the cancellation effective date.

The following endorsements shall be attached to the liability insurance policy:

- The policy shall cover complete contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property damage shall be eliminated.
- CITY shall be named as additional named insured with respect to the work to be performed under the Contract.
- The coverage shall be primary insurance so that no other insurance effected by CITY will be called upon to contribute to a loss under this coverage.

13. Indemnification. CONTRACTOR shall indemnify, defend and hold harmless CITY and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the work described in the Contract Documents, caused in whole or in part by any negligent act or omission of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

14. Wage Rates. Pursuant to the Labor Code of the State of California or any applicable local law, CITY has ascertained the general prevailing rate per diem wages and rates for holidays and overtime work in CITY for each craft, classification or type of worker needed to execute the Contract. CITY has adopted by reference the general prevailing rate of wages applicable to the work to be done under the Contract as adopted and published by the Division of Labor Standards Enforcement and Labor Statistics and Research of the State of California Department of Industrial Relations.

It shall be mandatory upon CONTRACTOR and upon any subcontractor to pay not less than the specified rates to all workers employed in the execution of the Contract. CONTRACTOR agrees to comply with all provisions of Section 1775 of the Labor Code of the State of California.

15. CONTRACTOR's Guarantee. CITY shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof or in, on or about the same during its construction and before acceptance.

CONTRACTOR unqualifiedly guarantees the first-class quality of all workmanship and of all materials, apparatus and equipment used or installed by CONTRACTOR, or by any subcontractor or supplier, in the project which is the subject of this Contract unless a lesser quality is expressly authorized in the Contract Documents in which event CONTRACTOR unqualifiedly guarantees such lesser quality. CONTRACTOR also unqualifiedly guarantees that the work performed by CONTRACTOR will conform with the Contract Documents and any written authorized deviations therefrom. In case of any defect in work, materials, apparatus or equipment, whether latent or patent, revealed to CITY within one year of the date of acceptance of completion of this Contract by CITY, CONTRACTOR will forthwith remedy such defect or defects without cost to CITY.

16. Liquidated Damages. Time shall be the essence of this contract. If CONTRACTOR fails to complete, within the time fixed for such completion, the entire work described in the Contract Documents, CONTRACTOR shall become liable to CITY for liquidated damages in the sum of Two Hundred Fifty and No/100 Dollars (\$250.00) for each and every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by CITY since it would be impracticable or extremely difficult to fix the actual damage. The amount of liquidated

damages may be deducted by CITY from moneys due CONTRACTOR at the time of completion of the work; and CONTRACTOR and its sureties shall be liable to CITY for any excess.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

18. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this contract.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

COLONY LANDSCAPE & MAINTENANCE, INC.
("CONTRACTOR")

By _____
City Attorney

By _____

Title and Date

By _____

Title and Date