

Attachment B

Protest Letter (R. E. Schultz Construction Inc.)

September 25, 2025

City of Newport Beach

Attn: Ellis Petersen, Project Manager
100 Civic Center Drive, Bay 2D
Newport Beach, CA 92660

Re: Formal Bid Protest – 2024–2025 Playground Improvements Project / Contract No. C-9753-1

Dear Ms. Petersen:

On behalf of R.E. Schultz Construction, Inc., this letter serves as our **formal protest** regarding the apparent low bid submitted by Western State Builders, Inc. for the above-referenced project. After careful review, we believe their bid is **non-responsive** for the following reasons:

1. Lack of Required LSI Certification

Western State Builders, Inc. is **not a Landscape Structures, Inc. (LSI) Certified Installer** as required by the City's bid documents. Furthermore, they did not list an LSI-certified subcontractor for the installation of the playground equipment. The bid specifications (Section 2-1, Award and Execution of the Contract, subsection c) clearly state: "*LSI certified installer (Landscape Structures Incorporated).*" A current list of LSI-certified installers is enclosed for your reference.

2. No Addendum Issued Modifying Certification Requirements

During the bidding process, a clarification was requested regarding whether the installer must be a manufacturer-certified installer (Question 1.21). The response stated:

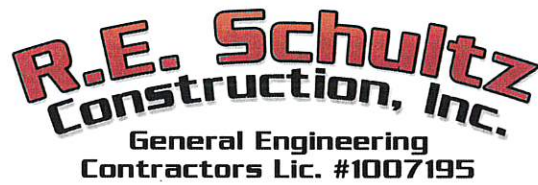
"The equipment installer must hold a D-34 license and be CPSI certified. No Playcraft Systems credentials are required. The holder of the D-34 license must demonstrate experience installing LSI equipment for public entities."

However, **no formal addendum was issued** to amend the original bid requirements. Accordingly, the City must enforce the specifications as written, which mandate an LSI-certified installer.

Conclusion

Based on these deficiencies, Western State Builders, Inc.'s bid should be deemed **non-responsive**. We respectfully request that the City reject their bid and award the contract to the most responsive and responsible bidder—**R.E. Schultz Construction, Inc.**

R.E. Schultz Construction, Inc. submitted a competitive bid fully compliant with all requirements. We have been a certified installer for Playcraft since 2016 and an LSI-certified installer since 2015. With over 25 years of experience, we have successfully completed hundreds of similar projects throughout California. Our firm holds the following licenses: A, B, C-61/D34, and C-61/D12.



We appreciate your consideration and the opportunity to continue serving the City of Newport Beach.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Schultz", with a long, sweeping horizontal line extending to the right.

Richard Schultz

President

R.E. Schultz Construction, Inc.

P: (714) 350-4269 | E: rick@reschultzconstruction.com

Cc: chelsea@reschultzconstruction.com

Cc: nicole@reschultzconstruction.com

Enclosures (5):

1. Excerpt – City of Newport Beach Bid Documents
2. Current List of LSI Certified Installers
3. Playcraft Certified Installer Certificate – RES
4. Landscape Structures Certified Installer Certificate – RES
5. CPSI Certificate – RES

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

SPECIAL PROVISIONS

2024-2025 Playground Improvements Project

CONTRACT NO. C-9753-1

INTRODUCTION

All work necessary for the completion of this contract shall be done in accordance with (1) these Special Provisions; (2) the Plans (Drawing No. B-5332-S); (3) the City's Design Criteria and Standard Drawings for Public Works Construction, (2021 Edition); (4) Standard Specifications for Public Works Construction (2015 Edition) including supplements. The City's Design Criteria and Standard Drawings for Public Works Construction are available at the following website:

<http://www.newportbeachca.gov/government/departments/public-works/resources>

Copies of the Standard Specifications for Public Works Construction may be purchased online at www.bnibooks.com/products/standard-specifications-public-works-construction or call 888-BNI BOOK (888-264-2665).

The following Special Provisions supplement or modify the Standard Specifications for Public Works Construction as referenced and stated hereinafter:

PART 1 - GENERAL PROVISIONS

SECTION 1 – TERMS, DEFINITIONS, ABBREVIATIONS, UNITS OF MEASURE, AND SYMBOLS

1-2 TERMS AND DEFINITIONS

Add the following definition:

City – City of Newport Beach

SECTION 2 - SCOPE AND CONTROL OF THE WORK

2-1 AWARD AND EXECUTION OF THE CONTRACT

At the time of the award and until completion of work, the Contractor shall possess a Class "A" license. "D-34" (prefabricated equipment) and "D-12" (synthetic



products/rubber surfacing) license is required for installer of playground equipment and rubber surfacing, respectively. At the start of work and until completion, the Contractor and all Subcontractors shall possess a valid Business License issue by the City.

“D-34” licensed playground equipment installer (Prime or Subcontractor) shall possess the following current certifications by relevant members of the project team assigned to City project, at time of bid:

- a) CPSI certification (Certified Playground Safety Inspector)
- b) Factory certified installer (Playcraft Systems)
- c) LSI certified installer (Landscape Structures Incorporated)**

If there is a conflict or discrepancy, City CPSI representative’s determination shall control.

If the “D-34” license holder is a Subcontractor, Contractor MUST provide an additional Technical Ability and Experience References form (Using the attached form) listing out the Subcontractor’s experience with public agency playground related projects in the past 2 years and in excess of \$150,000.

Additionally, Contractor MUST provide copies of certification (or D-34 Subcontractor’s certification) as described in this section.

2-5 PLANS AND SPECIFICATIONS

2-5.2 Precedence of Contract Documents

If there is a conflict or discrepancy between different Contract Documents, the more stringent requirement as determined by the Engineer shall control.

2-6 WORK TO BE DONE

The work necessary for the completion of this contract consists of removing and disposing of the existing playgrounds at Spyglass Hill and Bonita Canyon Sports Parks (1 Narbonne Newport Beach, CA 92660 and 1990 Ford Rd, Newport Beach, CA 92660, respectively) and replacing them with new playgrounds along with associated improvements/work as outlined in the Plans (Drawing No. B-5332-S).

SECTION 3 - CHANGES IN WORK

3-3 EXTRA WORK

3-3.2 Payment

3-3.2.2 Basis for Establishing Cost

3-3.2.2.3 Tool and Equipment Rental

Here is a list of Certified Installers in California.

Blanchard Construction (Sacramento)	Tom	Blanchard	5010 Stirling St.co	Granite Bay	CA	95746	916-791-7127	707-483-4943	blanchardconstruction@msn.com
Leonard's Construction	John	Leonard		San Jose	CA	95111		408-799-3386	leonconst569@gmail.com
James Breneman, S.P.	Jim	Breneman		Concord	CA	94522		925-817-9875	Jim@Jbreneman.com
Creative Builders - Who Built (north of SF)	Jana	Gebhardt	80 Alta Dr.	Petaluma	CA	94954	707-763-6210		jana@whobuilt.biz
King Khan Drilling and Construction, inc.	T. Khan	Diep	9315 Fowler Ave.	Clovis	CA	93619	559-944-6025	559-944-6025	kingkhandrilling@aol.com
G & G Builders, inc.	Gerald	Callahan	4542 Contractors Place	Livermore	CA	94551	925-846-9023	925-570-7606	gcallahan@ggbuilderinc.com
Sierra Play Partners (Jessup Holdings)	Loren	Jessop	PO Box 30	Ripon	CA	95366	209-317-3026	209-541-9658	loren@sierraplaypartners.com
Community Playgrounds (Bay area)	Curt	Wear	1620 Grant Ave., Ste. 5	Novato	CA	94945-2241	415-892-1707	415-559-8883	cwear@commplay.us
R. E. Schultz Construction (South of LA)	Richard	Schultz	PO Box 6	Silverado	CA	92676	714-649-2627		chelsea@reschultzconstruction.com
Cicero Engineering (South LA)	Frank	Cicero	1372 E. Valencia Dr.	Fullerton	CA	92831		562-762-5147	fcicero@ciceroengineering.com
Coast Recreation, Inc.	Jack	Stiegel	14688 El Molino St.	Fontana	CA	92335	714-619-0100	909-229-4855	jstiegel@coastrecreation.net
Tot Lot Pros, Inc. (East LA)	Jack	Striegel	14688 El Molino St.	Fontana	CA	92335	909-229-4855	909-229-4855	jack@totlotpros.com
General 2 Constructors, Inc.	Jose	Gomez	6393 Frank Ave.	Mira Loma	CA	91752	909-561-9443	909-821-3828	g2constructors@gmail.com
Evergreen Environment Inc. (East LA area)	Juan	Sandoval	8609 Mission Blvd.	Riverside	CA	92509	951-377-1757		juan@evergreenenvironment.net
Play Foundations S of LA, N of San Diego)	Jack	Cox	1330 N Melrose Dr., Suite F	Vista	CA	92083	760-295-8645		jack@playfoundations.com
Central Coast Playgrounds	Matt	Norris	Box 2212	Orcutt	CA	93455		805-266-6617	Matt@centralcoastplaygrounds.com
Jaynes Brothers Construction (Bay Area)	Chase	Jaynes	30941 Agoura Rd Suite 128	Wes Lake Village	CA	91361		805-559-0163	Chase@Jaynesbrothers.com
Childs Play, Inc.	Chris	Childs	1852 Langley Ave	Irvine	CA	92614	949-252-1186	714-709-1782	Chris@cphparks.com

- 1.19 The plans note that the contractor is responsible for removing, disposing of, and replacing the existing concrete bench and picnic table. However, no specific manufacturer or product line is identified in the documents. Could you please confirm if a specific manufacturer or model is required for these items?

Answer The requested information is in the notes on page 2 of the plans

- 1.20 Line Item(s) #8 & #18 indicate that contractor is to include furnishing and placement of sand in the bid item, however, Section 220-1.1 states that Playground Sand will be furnished by the City. Please clarify.

Answer The city will not furnish sand. The contractor may either clean the existing sand or purchase new sand. Either way the sand must meet the stated material/quality specifications outlined.

- 1.21 We ask that the city of Newport Beach to Lift the Manufacture Certified Installer Preference from the bid specs. We ask the city to allow other higher requirement standards for playground installers to be allowed and excepted.

Answer The equipment installer must hold a "D-34" license and be CPSI certified. No Playcraft Systems credentials are required. The holder of the "D-34" license must demonstrate experience installing LSI equipment for public entities.

- 1.22 Could you please confirm whether substitutions are permitted for the playground equipment? If so, would the City consider a value engineering option as an acceptable alternative?

Answer These are fully designed playgrounds that have been vetted through significant public input. We do not have the autonomy to change designs. It's not clear how the same design would be achieved with different equipment.

- 1.23 In the upcoming bid there is a note requiring all installers to be manufacturer certified. We are not currently factory certified by Landscape Structures (LSI). It has become apparent that these manufacturers keep an "exclusive club" of installers and do not allow anyone else this privilege. This has been a volatile issue for many of us installers over the last several years, so much that several major manufacturers have acknowledged that apparent conflict it presents to bidding agencies, and opted to use the California title 22, division 4, article 1, para 65730 Assembly & Installation wherein the installing contractor may be manufacturer certified OR a NPSI auditor. We respectfully request the City of Newport Beach delete the 'manufacturer certified' verbiage from there documents and replace it with language more open to competitive bidding. We meet the 30+ years' experience in playground/public works and are more than qualified to perform this scope of work. Thank you

Answer The equipment installer must hold a "D-34" license and be CPSI certified. No Playcraft Systems credentials are required. The holder of the "D-34" license must demonstrate experience installing LSI equipment for public entities.



This Certificate Approves

R. E. Schultz Construction Inc.

As having met the high standards necessary to become a
Certified Installer
of equipment manufactured by Landscape Structures Inc.

Expires February 2027

Date

Official Validation

Landscape Structures Inc., 601 7th Street South, Delano, MN 55328 USA

CERTIFICATE of ACHIEVEMENT

THIS ACKNOWLEDGES THAT

RICK SCHULTZ
R.E. SCHULTZ CONSTRUCTION, INC.

HAS SUCCESSFULLY COMPLETED THE

Certified Installer Program

Issue Date: 2/28/2023
Exp. Date: 12/31/2025

C.J. Schatza
CJ Schatza, VP/General Manager



National Recreation and Park Association

Let it be known that

RICHARD SCHULTZ

has met the requirements of the standards set forth by the
National Certification Board
and is hereby granted certification as a

Certified Playground Safety Inspector



CHAIRPERSON



NRPA PRESIDENT AND CEO



Certified
Playground
Safety Inspector

April 30, 2024

DATE CERTIFIED

61173-527

CERTIFICATION NUMBER

May 01, 2027

EXPIRATION DATE



NATIONAL RECREATION
AND PARK ASSOCIATION