

DATE September 5, 2001

C.D. 06

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: APPROVE A TAKEOVER AGREEMENT FOR THE SEPULVEDA BASIN/WOODLEY GOLF CLUBHOUSE (#1554A)

J. Combs _____
A. Corrales _____
J. Duggan _____
J. Kolb _____

H. Fujita _____
*M. Tamuri WT
M. Matthews _____

Eduardo Jimenez
General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

It is recommended that Board:

1. Approve the execution of a takeover agreement in substantial form to the one attached with the Travelers Casualty and Surety Company of America for the work at the Sepulveda Basin/Woodley Golf Clubhouse (#1554A) project;
2. Approve the use of \$147,627.00 from golf surcharge funds as the source of the advance funds identified in this agreement; and,
3. Find that the advance of \$147,627.00 shall be reimbursed to the golf surcharge account by either the Surety and/or by interdepartmental transfer when the OCC withhold is lifted from disputed project retention funds as identified in the takeover agreement.

SUMMARY:

Previously, the Board of Recreation and Park Commissioners approved actions to cancel the Contract with Target Construction at the Woodley Golf Clubhouse , and tender the project to the Surety. The Surety company has worked in conjunction with the Department to seek a means to complete the Project. The Surety and the Department have agreed to utilize the Department of General Services to complete the Project. The Board approved the MOU between Recreation and Parks and the Department of General Services to undertake this work at it's Board meeting of July 11, 2001.

The takeover agreement between the Surety and the City acknowledge the terms and conditions of the relationship between the City and the Surety. The Agreement also acknowledges that at present, there is a dispute between the Surety and the City as to the Office of Contract Compliance (OCC) findings which caused the withholding of \$295,254.00, not including penalties on the project, to the department's retention funds on this project. In an effort to restart the project while the dispute is

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resolved, the Surety and City have agreed to each advance half of the disputed OCC withhold amount in order to provide sufficient funds to General Services to restart the Project.

Both the Surety and the City have reserved their rights in the agreement to recover the advanced funds once a resolution of the labor withholding dispute occurs. During project completion by General Services, the City will continue to maintain the OCC attached funds in a separate account. The Department will utilize golf surcharge funds as a source of the funds advanced for the completion of the project.

At the time of the project cancellation, the previous Contractor had exceeded the time allotted for the completion of the work and was into a liquidated damages period of the contract. The current takeover agreement waives liquidated damages which would have been due from Target Construction in exchange for the Surety's agreement to complete the work.

The takeover agreements has been reviewed by the Department and the City Attorney as to form.

Prepared by Maureen Tamuri, Assistant General Manager.