

REPORT OF GENERAL MANAGER

NO. 01-335

DATE September 5, 2001

C.D. 8

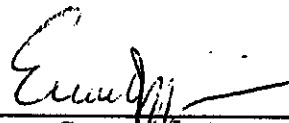
BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: Rescind Board Report No. 01-208

Release Money Withheld Under Contract No. 2867; Leimert Plaza Park - Park Development (#1180B)

J. Combs _____
A. Coroalles _____
J. Duggan _____
J. Kolb _____

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



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

It is recommended that:

1. The Board rescind its action taken on Board Report No. 01-208 which was approved on June 6, 2001; and,
2. The Board approve the forfeiture of \$17,320.29 which represent the full amount of monies retained by the City on this project, for wage restitution and penalties; and,
3. The Chief Accounting Employee be directed to process payment to the Public Works Office of Contract Compliance for transmittal to the State of California, Department of Industrial Relations, Division of Labor Standards Enforcement.

SUMMARY:

On June 6, 2001, the Board approved Report No. 01-208. D&M Construction, Inc. claims that they did not receive notice of the Board meeting where the Board considered action taken on the aforementioned item, or any notification of the agenda.

Staff may have inadvertently neglected to notify D&M Construction, Inc. of the June 6th Meeting. In spirit of fairness and equity, staff requests that the Board reconsider its action on Report No. 01-208 and give D&M Construction, Inc the opportunity to address the Board regarding the recommendation to forfeit \$17,320.29.

REPORT OF GENERAL MANAGER

PG. 2

NO. 01-335

On September 29, 1998, the Board awarded the Leimert Plaza Park - Park Development (#1180B) to D&M Construction, Inc. Subsequently, on August 9, 2000, the Board accepted the work performed as having been completed. The Office of Contract Compliance sent withhold requests to the Department's Grants Accounting Division on December 7, 1999 and September 7, 2000 for wage restitution and penalties in the amount of \$2,417.70 and \$20,486.11 respectively of which \$5,583.52 has been released to D & M Construction, Inc. The Office of Contract Compliance has now requested the forfeiture of the \$17,320.29 being withheld and D&M Construction was notified.

The California Labor Code requires that all wages and penalties that have been withheld are to be transferred to the Labor Commissioner whenever a contractor fails to bring suit for recovery of wages and penalties that are withheld within 90 days after the completion of the contract and formal acceptance of the job. Since D & M Construction, Inc. has filed no lawsuit, it is timely to release said funds to the Public Works Office of Contract Compliance for transmittal to the State of California, Department of Industrial Relations, Division of Labor Standards Enforcement.

Prepared by Petrona Johnson