

DATE April 17, 2002

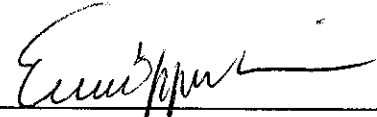
C.D. 06

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: RESCIND BOARD ACTION; WESTCHESTER RECREATION CENTER COMMUNITY BUILDING (#1539A) - APPROVAL OF THREE PARTY TENDER AGREEMENT AND APPROVAL OF COMPLETION CONTRACT WITH HAYWARD CONSTRUCTION COMPANY, INC.

J. Combs _____
A. Coroaalles _____
J. Duggan _____
J. Kolb _____

H. Fujita _____
*M. Tamuri POF ja
M. Matthews _____



General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

It is recommended that the Board:

1. Rescind the action taken by the Board on October 17, 2001, (Board Report No. 01-392);
2. Accept the voluntary default by Stenco Construction for Contract No. 2950;
3. Approve a tender agreement from Washington International Insurance Company (Surety) whereby Stenco Construction is voluntarily removing itself from the contract;
4. Approve a Completion Contract between the City and Hayward Construction Company, Inc. in substantially the same form as the agreement attached;
5. Direct the Board Secretary to forward this report and the proposed tender agreement forthwith to the Mayor in accordance with Executive Directive 16 and concurrently to the City Attorney for review as to form; and,
6. Authorize the Board President and Secretary to execute the tender agreement and the completion contract upon receipt of the necessary approvals.

SUMMARY:

The construction of a new community building for Westchester Recreation Center began on July 6, 2000, with a construction completion period of 300 days or on May 2, 2001. A change order had been issued extending the completion date to May 25, 2001. The work consists of building a new 8,997 square foot community building with a new lobby, gymnasium, director's office, men and women's toilets, storage room and electrical room. Construction work is 43% completed presently.

REPORT OF GENERAL MANAGER

PG. 2

NO. 02-155

As of May 25, 2001, construction work was approximately 27% complete, when it should have been completed. The work progress to date is very slow and unsatisfactory due to the lack of construction activities and lack of manpower assigned to this job. At present the contractor is continuing to work on the project with the knowledge that he is going to be assessed liquidated damages. A 30-day notice to correct was issued to the contractor on July 17, 2001, which required them to complete seven (7) tasks by August 16, 2001. On August 17, 2001, a meeting was held to assess the contractor's progress. The result of the meeting showed that the contractor had completely complied with Item Nos. 1, 2, 4 and 5, partially complied with Item Nos. 3 and 7 by completing some non-compliance work and providing a partial list of sub-contractors who will be working on this project. Item No. 6 required them to install the steel joists by August 16, 2001 had not been complied with. contractor's work has progressed about 15 days in the 30-day notice period from July 17, 2001 through August 16, 2001.

As agreed to, by all parties, in the meeting of July 12, 2001, the Department will initiate proceedings to terminate the contract per Section 51, Division 1 of the General Provisions, if all notice to correct items have not been completed by August 16, 2001.

The progress payment made on December 10, 2001, identified an unpaid contract balance in the amount of \$818,235.16. Upon receipt of the final payment for work done up and through the date of the Board's acceptance of the cancellation of Stenco's Contract No. 2950, the final unpaid contract balance will be identified in the final tender agreement.

On October 17, 2001, the Board approved the voluntary default of Stenco and entered into a contract with Tobo Construction, Inc. Tobo construction, Inc. has since withdrawn from the work. Surety solicited the work with Hayward Construction Company, Inc. on February 25, 2002, Hayward accepted the work.

On April 1, 2002, the Department received a draft from the Surety company stating again that Stenco has voluntarily removed itself from the contract and in order to have a speedy transition, the Surety also proposes that the City enter a contract with Hayward Construction Company, Inc. Department staff has verified Hayward's license (#372533) is current as shown in the attached report from the California State License Board.

Report prepared by William H. Tseng, Contract Administrator.