

REPORT OF GENERAL MANAGER

NO. 02-122

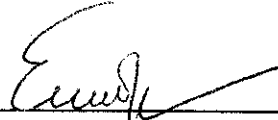
DATE March 20, 2002

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: Release of Monies Withheld Under Contract No. 2797; Algin Sutton Recreation Center - Pool Building Refurbishment #1639B; Fast E.C.D., Inc.

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

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



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

It is recommended that the Board approve the release of retention monies and payment be made as follows:

1. Pay \$17,500.00 to Gulf Insurance Co.
c/o Booth, Mitchel & Strange LLP, Attorneys
701 South Parker Street, Suite 6500
Orange, CA 92856-8155
Attention: Mr. Craig E. Guenther
2. Pay \$5,725.22 to Diamond Electric
c/o Law Offices of Margaret A. Jewett
1950 East Chapman Avenue, Suite One
Fullerton, CA 92831-0800
3. Pay \$59,051.78 jointly to Feldman and Associates, Inc.
Client Trust Account and Fast E.C.D., Inc.
c/o Feldman & Associates, Inc., Attorney at Law
11030 Santa Monica Boulevard, Suite 109
Los Angeles, CA 90025.

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SUMMARY:

The Department is in receipt of a communication from the City Attorney's Office requesting that retention monies previously withheld in connection with a lawsuit between Fast E.C.D., Inc. and City of Los Angeles, LASC #BC251995, to satisfy claims from Diamond Electric and the Surety, Gulf Insurance Co., be released as indicated above.

On August 20, 1997, the Board awarded Contract No. 2797 to Fast E.C.D., Inc. for the Algin Sutton Recreation Center - Pool Building Refurbishment (1639D). Subsequently, Diamond Electric filed stop notices in the amounts of \$5,691.17 and \$15,330.64. The Department's accounting staff was notified to withhold these amounts, plus an additional 25 percent if available. Neither stop notice from Diamond Electric was perfected by a lawsuit. However, as indicated by the City Attorney's Office, settlement was reached between Fast E.C.D., Inc. and Diamond Electric and, therefore, Fast E.C.D., Inc. has requested payment to Diamond Electric in the amount of \$5,725.22.

At its meeting held August 9, 2000, the Board accepted the work on this project as complete and Fast E.C.D., Inc. was furnished with a letter of completion. However, on September 13, 2000, the Board received a letter from Booth, Mitchel & Strange LLP, representing Gulf Insurance Co., Surety on the above-mentioned project, requesting that all contract funds and/or retention payable to Fast E.C.D., Inc. be released to Gulf Insurance pursuant to its rights under the General Agreement of Indemnity executed by the General Contractor in favor of Gulf Insurance Co. The reason being that Gulf Insurance Co. has been obligated to pay claims and has incurred losses and expenses by reason of the general contractor's failure to pay its subcontractors and material suppliers on the subject project. Subsequently, Fast E.C.D., Inc. filed a lawsuit against the City of Los Angeles.

Upon the advice of the City Attorney, it is now in order to release funds as recommended.

Prepared by Petrona Johnson