

REPORT OF GENERAL MANAGER

NO. 02-324

DATE September 4, 2002

C.D. 10

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: Release of Funds Withheld Under Contract #2844; Venice Beach Ocean Front Walk - Rose Avenue Restroom and Play Area (#1019C); RCO Construction Company, Inc.

J. Combs _____

H. Fujita _____

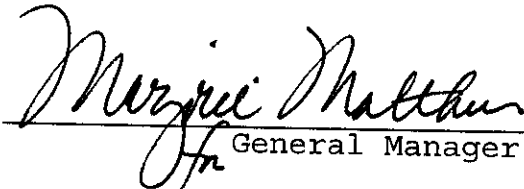
A. Coroalles _____

*R. Fawcett **EDF**

J. Duggan _____

M. Matthews _____

J. Kolb _____


General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

1. That the Board find, inasmuch as Exact Door & Frame, Inc./Edafi, Inc., Advanced Landscape, Inc., and G. Tech. Construction A/C & Electric did not perfect their stop notices within the time limit prescribed by the California Code of Civil Procedure, that Stop Notice claims previously filed in the amounts of \$2,845.00, \$17,960.00 and \$15,358.00, respectively are no longer in force;
2. That the Board approve the forfeiture of funds in Contract 2844, in the amount of \$49,959.09, for employee wage restitutions, penalties, and training fund contributions;
3. That the Chief Accounting Employee be directed to draw a demand in the amount of \$49,959.09 payable to the California State Department of Industrial Relations, to be transmitted to the Office of Contract Compliance (OCC), Attention: Mr. Manuel Perez, Mail Stop 138;
4. That the Board rescind recommendation on Board Report 00-125 approved on April 5, 2000 directing the Director of Finance to release funds to Horizon Business Resources, Inc on behalf of Ranger Insurance Company, inasmuch as Horizon Business Resources is no longer representing Ranger Insurance Company
5. That the Board direct the Chief Accounting Employee to release the balance in the contract account in the amount of \$56,386.67 to the Surety, Ranger Insurance Company.

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SUMMARY:

On June 18, 1998, the Board awarded Contract No. 2844 to RCO Construction Company, Inc., general contractor for the Venice Beach Ocean Front Walk - Rose Avenue Restroom and Play Area (#1019C). Ranger Insurance Company, as surety, issued payment and performance bonds.

Subsequently, on July 7, 1999, September 1, 1999, and January 5, 2000 the Board accepted stop notice claims for \$2,845.00, \$17,960.00 and \$15,358.00, respectively. The Department's staff was notified to withhold those amounts, plus an additional 25 percent, if available. On April 5, 2000, the Board accepted partial release of stop notices from Exact Door & Frame/Edafi, Inc. and Advanced Landscape, Inc. for \$2,000.00 and \$13,398.36, respectively. Final release notices for the balance remaining of \$845.00 and \$4,561.64 were never received from Exact Door and Advanced Landscape, Inc. The three claimants were required to perfect their stop notice claims within 180 days of Board's acceptance of the project, which time has expired with no such action taken. The Board accepted the work of the contract as complete at its meeting held on March 15, 2000.

As advised by the City Attorney's Office, the Board Secretary forwarded letters to Exact Door & Frame, Inc./Edafi, Inc., Advanced Landscape, Inc., and G. Tech. Construction A/C & Electric asking whether a lawsuit had been filed, requiring a response within 15 days, which time elapsed on August 20, 2002.

On August 12, 2002, the letter to Exact Door & Frame, Inc./Edafi, Inc. was returned by the Post Office stamped "Not deliverable as addressed. Unable to forward." Subcontractor was not reachable by telephone either. On August 26, 2002, Advanced Landscape, Inc. confirmed that their Stop Notice was not perfected. No response was received from G. Tech. Construction A/C & Electric.

On July 5 and 8, 2002, Grants Accounting received notices from the OCC to withhold funds for wage restitutions, penalties, and training fund contributions totaling \$49,959.09.

On July 3, 2002, the Department received a communication from Claims Management Associates, Inc. on behalf of Ranger Insurance Company (Surety), demanding payment of remaining contract balances to the Surety, who had previously honored payment bond claims submitted by subcontractors for the above contract.

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A review of the accounting records reveals that there remains a total of \$106,345.76 in the contract account. This sum represents retention funds of \$47,284.59 and unpaid balance of \$59,061.17 which covers OCC and claimants' Stop Notices.

On July 16, 2002, OCC requested that the Board approve the forfeit in the amount of \$49,959.09 to cover wage restitutions and forward same to the California State Department of Industrial Relations. The Office of Contract Compliance will forward the check to the State along with a recommendation on the distribution of the funds among the wage violation claimants. With the Stop Notices no longer in force, the remaining balance of \$56,386.67 can be released to Ranger Insurance Company.

Prepared by Petrona Johnson