

REPORT OF GENERAL MANAGER

NO. 03-134

DATE April 16, 2003

C.D. 7

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: RELEASE OF MONEY WITHHELD UNDER CONTRACT NO. 2852; BRAND PARK - REFURBISHMENT OF MEMORY GARDENS (#1824Q)

J. Combs \_\_\_\_\_  
A. Coroalles \_\_\_\_\_  
J. Duggan \_\_\_\_\_

H. Fujita \_\_\_\_\_  
J. Kolb \_\_\_\_\_  
\* B. Lukehart BSL

  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

1. That the Board approve the forfeiture of \$10,228.18 for wage restitution and penalties under Contract No. 2852; and
2. That the Director of Finance be instructed to prepare a draft in the amount of \$3,228.18, made payable to the State of California and forward same to the Office of Contract Compliance for processing to the California Labor Commission; and
3. That the Director of Finance be instructed to transfer \$7,000.00 to Revenue Account 4331-Penalties and Forfeitures for Fund 100, Department 76, of the City's General Fund.

SUMMARY:

On June 4, 1998, the Board awarded the Brand Park - Refurbishment of Memory Garden to S.H.E. Construction Group, Inc. Subsequently, on June 19, 2002, the Board accepted the work performed as having been completed. The Office of Contract Compliance sent a withhold request to the Department's Grants Accounting Division on June 2, 1999 for wage restitution and penalties in the amount of \$10,228.18. The Office of Contract Compliance has now requested the forfeiture of the \$10,228.18 being withheld.

The California Labor Code allows a contractor 10 days in which to comply with the written notice from the Office of Contract Compliance regarding labor compliance issues. If the contractor fails to comply, the forfeit is \$25 per day, or portion thereof, for each worker until compliance is effectuated. Further, the 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 S.H.E. Construction, Inc. has filed no lawsuit, it is timely to release said funds.