

REPORT OF GENERAL MANAGER

NO. 03-380

DATE December 10, 2003

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: BARNSDALL PARK - PHASE I MASTER PLAN DEVELOPMENT (#1026C) -
CONTRACT NO. 2995 - CHANGE ORDER, FINAL ACCEPTANCE, RELEASE
AGREEMENT

L. Barth _____
A. Corrales _____
H. Fujita _____
J. Kolb _____

*B. Lukehart BSL.
F. Mok _____
G. Stigile _____


General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

It is recommended that the Board:

1. Approve a change order in the amount of \$300,000.00 to Contract No. 2995 for the work outlined in the body of this report;
2. Approve, subject to City Attorney approval as to form and City Council approval, the attached Release Agreement (Agreement) with the contractor, Mallcraft, Inc., in accordance with the terms contained in the body of this report;
3. Direct the Board Secretary to transmit the Agreement to the Mayor pursuant to Executive Directive 16 and to the City Attorney;
4. Upon receipt of necessary approvals, authorize the President and Secretary of the Board to execute the Agreement;
5. Accept the work performed under Contract No. 2995 as outlined in the body of this report and authorize the Board Secretary to furnish Mallcraft, Inc., with a letter of completion; and,
6. Authorize the Department's Chief Accounting Employee to release all unpaid balance monies and the Board Secretary to request the Escrow Agent, City National Bank, to close escrow and release all retention monies held under Contract No. 2995, upon the execution of the Agreement, but not sooner than 35 calendar days from the date of the Board's acceptance.

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SUMMARY:

On May 16, 2001, the Board, through Board Report No. 01-115, awarded a construction contract in the amount of \$9,903,750.00 to Mallcraft, Inc., for the seismic repair and hazard mitigation of six historic structures and site improvements at Barnsdall Park/Hollyhock House, located at 4800 Hollywood Boulevard, Los Angeles, California. Construction began on June 25, 2001, and the City took beneficial occupancy on June 2, 2003.

During construction, it was discovered that extensive repairs and redesign to the historic structures were required. These were due to termite and dry rot damage, unforeseen seismic components, and the upgrade of the existing utility infrastructure that was not originally indicated in the contract documents. The additional work extended the completion date by 299 days. Sixty seven (67) change orders were issued with a total value of \$1,370,208.53.

Most of the approved change orders have not covered the contractor's lost time. The contractor has, therefore, requested another change order for compensation in the amount of \$911,088.00. This amount is for the 299 days of lost time for extended field and home offices overhead caused by the extra work. It is staff's position that the contractor was responsible for some of the delays. But due to complications involved in this type of historical reconstruction and unavoidable circumstances beyond the control of both parties, staff is also of the opinion that the contractor would be entitled to additional non-compensable calendar days. Therefore, it is recommended that the City not assess liquidated damages; the contractor is entitled to 194 calendar days of compensatory delays; and the contractor shall receive \$300,000.00.

The above details have been incorporated into the Agreement which addresses this change order and releases both the City and Mallcraft, Inc., from future liability towards each other in connection with the project.

The Escrow Agent, City National Bank, had retained \$1,127,395.85 of the retention money in the contract, as indicated in Escrow Agreement (Br. Rpt. No. 01-388, October 17, 2001). As of this date, this retention money has not been released to the contractor, along with the agreed \$300,000.00 original payment for delay cost. If this final change order and final Release Agreement is approved the total sum due to the contractor will be \$1,427,395.53.

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The project was funded with MTA, FEMA, CDBG, Quimby, Zone, CRA Cinerama Dome Bond, and Prop G Seismic Bond monies. Funds are available from Seismic Bond Funds, Fund 175 Account H432, Fund 608, and Account P537 to pay this final change order. Department staff has consulted with the Office of Contract Compliance (OCC) concerning the status of labor compliance and Affirmative Action requirements on this project. There are no outstanding wage violations and Mallcraft, Inc. is in compliance.

Prepared by Willis Yip, Project Manager.