

REPORT OF GENERAL MANAGER

NO. 03-30

DATE January 22, 2003

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: APPROVAL OF THREE PARTY SETTLEMENT AGREEMENT AND MUTUAL RELEASE FOR THE SEPULVEDA BASIN WOODLEY GOLF CLUBHOUSE (#1554A) - CONTRACT NO. 2850

J. Combs \_\_\_\_\_  
A. Corrales \_\_\_\_\_  
J. Duggan \_\_\_\_\_  
J. Kolb \_\_\_\_\_

H. Fujita \_\_\_\_\_  
\*B. Lukehart [Signature]  
L. Barth \_\_\_\_\_

[Signature]  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

It is recommended that the Board authorize the Board President and Secretary to execute a "Three Party Settlement Agreement and Mutual Release" substantially in the form attached with Travelers Casualty and Surety Company of America; Sabzerou Inc., dba Target Construction; and the Department of Recreation and Parks.

SUMMARY:

On November 15, 2000, the Board approved the cancellation of a construction contract with Sabzerou Inc. dba as Target Construction (Board Report No. 00-429), and notified the bonding company, Travelers Casualty and Surety Company of America, to complete the work on the Sepulveda Basin -Woodley Golf Clubhouse (#1554A) project.

On September 5, 2001, the Board approved a "Takeover Agreement", entered into August 31, 2001 with Travelers Casualty and Surety Company of America for the completion of the work (Board Report No. 01-309 Revised). A true and correct copy of the agreement is attached hereto as Exhibit A.

During completion of the work, it became necessary for certain subcontract work to be performed. To facilitate completion of the subcontract work, the Board approved a Modification to the Takeover Agreement ( Board Report No. 01-445) on November 28, 2001, whereby a Three Party Agreement was entered into between the Department; Travelers Casualty and Surety Company of America; and Duray J.F. Duncan Industries, Inc. A true and correct copy of the agreement is attached hereto as Exhibit B.

## REPORT OF GENERAL MANAGER

PG. 2

NO. 03-30

The proposed "Three Party Agreement and Mutual Release" updates the August 31, 2001 "Takeover Agreement". The update acknowledges the resolution of outstanding and disputed wage violations claimed by the Office of Contract Compliance. This update to the "Takeover Agreement" is necessary in order for the City to obtain a dismissal of a lawsuit against it by the prime contractor, Target Construction, relating to the City's termination of the contract. Trial for the lawsuit, Los Angeles Superior Court No. LC 058055, is scheduled to begin January 27, 2003. This update also incorporates the current financial data relating to completion of the project under the "Takeover Agreement". All provisions of the "Takeover Agreement" remain in full affect and the Department is not waiving any provision contained therein.

Pursuant to the proposed "Three Party Settlement Agreement and Mutual Release", the resolution of the issues dealing with missed bid items and latent defects is still pending and will be brought to the Board for its approval when completed. Missed bid items constitute items of work that may have been missed by the Department of General Services during the preparation of their construction completion estimate. Similarly, latent defects constitute costs for correction work performed by GSD during the course of construction. These defects could not have been know at the time the estimate was prepared because they were concealed or were otherwise not known until they were revealed during completion of the work. Staff is currently in discussion with the Surety for final resolution of these issues and expect to complete their negotiation within thirty days.

Prepared by Armando De La O, Contract Administrator.