

REPORT OF GENERAL MANAGER

NO. 04-45


DATE February 18, 2004

C.D. 02

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: DOWNEY CHILDCARE CENTER (#1633D) - CONTRACT NO. 2898 -
RESCISSION OF APPROVAL OF COMPLETION CONTRACT WITH HAYWARD
CONSTRUCTION COMPANY, INCORPORATED

J. Combs _____	M. Mariscal _____
H. Fujita _____	*F. Mok _____
J. Kolb _____	K. Regan _____
*B. Lukehart <u>BSC.</u>	G. Stigile _____


General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

It is recommended that the Board:

1. Rescind approval of the Completion Contract with Hayward Construction Company, Inc. (Hayward) approved by the Board on January 9, 2002 (Board Report No. 02-18); and
2. Authorize the Board Secretary to release the Performance and Contractor's Bonds to Hayward.

SUMMARY:

On January 9, 2002, the Board of Recreation and Park Commissioners (Board), through Board Report No. 02-18, approved a Tender Agreement with Fidelity and Guaranty Insurance Company (Surety) for the completion of the work at Downey Recreation Center- Child Care Center (#1633D). Also approved was a completion contract with Hayward, a contractor selected by the Surety.

A Tender Agreement necessary when Gamma Constructor's, Inc. (Gamma), the original contractor selected by the Board to construct the project, could only complete 5% of the contract work. The Board terminated the construction contract with Gamma on October 4, 2000 (Board Report No. 00-358).

On January 21, 2004, the Board, through Board Report No. 04-25, approved a Release Agreement with the Surety. The Release Agreement replaces the previously approved Tender Agreement. Further negotiations revealed that it was in the best interest of all parties to replace the Tender Agreement with a Release Agreement.

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The Release Agreement requires the insurance company to pay the City the amount of \$432,731.36 which the City will use to reimburse the expenses to date for this project. The agreement also releases the Surety from further obligations on the project.

It has come to staff's attention that the Board action of January 21, 2004, did not address the completion contract with Hayward, which was approved but never executed. In order to relieve Hayward of its obligations under the Construction Agreement and allow the Board Secretary to release Hayward's Performance and Contractor's Bond, it is recommended that the Board rescind approval of the completion contract and direct the Board Secretary to return all bonds to Hayward.

Report prepared by William Tseng, Contract Administrator.