

APPROVED

REPORT OF GENERAL MANAGER

MAY 21 2014

NO. 14-123

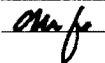
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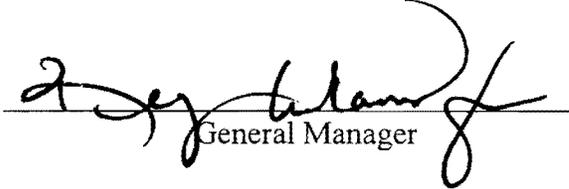
BOARD OF RECREATION
1 PARK COMMISSIONERS

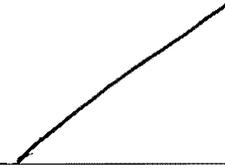
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BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: CULVER SLAUSON RECREATION CENTER – PHASE II (YOUTH COMMUNITY CENTER) (W.O. #E1907289) PROJECT – RELEASE OF FUNDS WITHHELD UNDER CONTRACT NO. 3361

R. Adams	_____	V. Israel	_____
*R. Barajas		K. Regan	_____
H. Fujita	_____	N. Williams	_____


General Manager

Approved 

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve the forfeiture of \$38,426.30 on the Culver Slauson Recreation Center – Phase II (Youth Community Center) (W.O. #E1907289) project to Nile Advanced Construction (Nile), Contract No. 3361, for wage restitution and State of California, California Labor Commission, imposed penalties;
2. Authorize the Department’s Chief Accounting Employee to transfer funds, in the amount \$4,477.62, to Revenue Source 4331 - Penalties and Forfeitures, for Fund 100, Department 76 of the City's General Fund;
3. Direct the Department’s Chief Accounting Employee to prepare a draft, in the amount of \$33,948.68, payable to the State of California, and forward the draft to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance for processing to the California Labor Commission; and,
4. Authorize the Department’s Chief Accounting Employee to release the remainder of the retention funds held under this contract, in the amount of \$9,014.43, to Nile Advanced Construction, the prime contractor on the project.

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SUMMARY:

The Board of Recreation and Park Commissioners (Board) entered into a construction contract with Nile, Contract No. 3361 on November 2, 2011, to perform work on the Culver Slauson Recreation Center – Phase II (Youth Community Center) (W.O. #E1907289) project.

A preconstruction conference was held on November 17, 2011 during which the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) reviewed and explained the prevailing wage requirements to Nile and the subcontractors in attendance. Andy Quiocho Concrete (Quiocho) was listed as an approved subcontractor and duly approved by the Board. Quiocho began work on the project site on January 17, 2012.

During the completion of this project, OCC was notified of possible labor violations. After an investigation it was determined that sub-contractor, Quiocho, failed to comply with the labor compliance requirements of the contract. Based on the evaluation of the inspector's logs, certified payroll records, worker interviews, and other pertinent payroll documents, it was determined that Quiocho failed to pay the correct prevailing wage rate and under-reported the number of workers employed on the project. As a result of the evaluation, it was determined that Quiocho underpaid wages by \$33,948.68, and was penalized for such underpayment, in the amount \$4,477.62, for a total of \$38,426.30 in assessed underpayment violations and penalties.

The preliminary investigation by the OCC resulted in evidence indicating Quiocho had underpaid their workers by \$47,440.73. Based on this information, OCC requested that retention funds for the project, for this amount, be withheld to cover all outstanding labor compliance issues on the project. Subsequently, the contractor supplied information which caused OCC to revise the amount of its assessment downward, to \$38,426.30. Department of Public Works, Bureau of Engineering has consulted with the OCC and there are no other wage violations or penalties identified. Therefore, \$9,014.43 of the initially disputed funds is no longer in dispute and it is recommended that \$9,014.43 be released to Nile immediately.

The total amount of wage restitution and state penalties to be forfeited is \$38,426.30, as detailed below:

<u>CONTRACTOR</u>	<u>ALLOCATION</u>	<u>AMOUNT</u>
Nile Construction (on behalf of Quiocho Concrete)	Wage restitution	\$33,948.68
	State penalties	\$4,477.62
Nile Construction	Retention released to contractor	<u>\$9,014.43</u>
TOTAL		\$47,440.73

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FISCAL IMPACT STATEMENT:

There is no fiscal impact to the Department's General Fund, as funds for this project have already been appropriated for this purpose.

This report was prepared by LaTonya D. Dean, Commission Executive Assistant, Department of Recreation and Parks, and revised by Willis Yip, Project Manager, Architectural Division, Department of Public Works, Bureau of Engineering (BOE). Reviewed by Neil Drucker, Program Manager, Recreation and Cultural Facilities Program, BOE, Chris Jenson, Management Analyst II, Department of Public Works, Office of Contract Compliance, Thurman Green, Management Assistant, Department of Public Works, Office of Contract Compliance, and Ted Allen, Acting Deputy City Engineer, Bureau of Engineering.