

**APPROVED**  
NOV 07 2008

REPORT OF GENERAL MANAGER

**BOARD OF RECREATION  
and PARK COMMISSIONERS**

NO. 08-289

DATE November 5, 2008

C.D. 9

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GILBERT LINDSAY – NEW RECREATION CENTER (PHASE II) (#1400B) (#E170308F), CONTRACT NO. 3239 – HEARING ON OBJECTION TO SUBSTITUTION OF ROUGH CARPENTRY SUBCONTRACTOR

R. Adams	_____	J. Kolb	_____
H. Fujita	_____	F. Mok	_____
S. Huntley	_____	K. Regan	_____
V. Israel	_____	*M. Shell	_____

*see for MS*

*[Signature]*  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board hold a hearing to determine whether to approve or deny the substitution of a subcontractor as requested by the prime contractor, pursuant to Los Angeles Administrative Code Section 10.14.

SUMMARY:

The Department is in receipt of a request from Los Angeles Engineering, Inc., prime contractor for the Gilbert Lindsay – New Recreation Center (Phase II) (#1400B) (W.O. #E170308F), Contract No. 3239, to substitute the bid-listed contractor, Cal-Pacific Construction Company, Inc., with GSF Enterprises dba Golden State Framers, to perform the rough carpentry portion of this project. The request was made inasmuch as Cal-Pacific Construction Company did not enter a contract to perform the work.

The Bureau of Contract Administration has recommended the request for substitution. Pursuant to Section 10.14 of the Los Angeles Administrative Code, the Department provided written notification of the substitution request to Cal-Pacific Construction Company Inc. The Department received an objection from Cal-Pacific Construction Company Inc. with regards to the prime contractor's substitution request. A copy of the objection letter has been attached to this report as Exhibit A. According to Section 10.14 of the Los Angeles Administrative Code, it is now in order for a hearing to take place where the Board of Commissioners shall make a determination as to the approval or denial of the substitution request made by the prime contractor.

*see attached*

REPORT OF GENERAL MANAGER

PG. 2

NO. 08-289

FISCAL IMPACT STATEMENT:

Approval or denial of the substitution request will not alter the contract amount and therefore has no impact on the Department's General Fund.

This Board Report was prepared by LaTonya D. Dean, Commission Executive Assistant.

SAM K. ABDULAZIZ  
A Law Corporation

KENNETH S. GROSSBART  
A Law Corporation

BRUCE D. RUDMAN  
A Law Corporation

CATHERINE R. FINAMORE

SHARICE BABOLIMIAN



EXHIBIT A

BOARD OF RECREATION  
AND PARK COMMISSIONERS

2008 OCT 14 AM 10:30

— LAW OFFICES OF —  
**ABDULAZIZ, GROSSBART & RUDMAN**  
— A Partnership of Professional Corporations —

Mailing Address: P.O. Box 15458 / North Hollywood, CA 91615-5458 / (818) 760-2000 / Fax: (818) 760-3908

October 7, 2008

Sent Via Facsimile & Mail  
Fax No. 213-928-9048

Mary E. Alvarez, Commission Executive Assistant  
City of Los Angeles  
Board of Recreation and Park Commissioners  
1200 West 7<sup>th</sup> Street, Suite 762  
Los Angeles, CA 90017

Re: Substitution Request of Los Angeles Engineering, Inc.  
Subcontractor: Cal Pacific Construction Company, Inc.;  
Project Name: Gilbert Lindsay-New Recreation Center (Phase Two) (#1400 B) (W.O.  
#E170308F);  
Contract No: 3239  
Our File No: 9645

Dear Ms. Alvarez:

Please accept this letter as Cal-Pacific Construction Company, Inc.'s written objection to the Substitution Request of Los Angeles Engineering, Inc. regarding the above referenced project. Your notice was not received until October 4, 2008.

Although the letter does not set forth the grounds for the substitution, none of the grounds under Section 4107 of the Public Contract Code apply to allow a substitution.

Cal-Pacific Construction Company, Inc. was a listed subcontractor for rough framing work on the project. They were provided with a subcontract agreement that contained a number of objectionable provisions, including provisions that are unconscionable. Our client agreed to sign the agreement after making a small number of modifications to the form, none of which affecting the price, scope of work, time for performance, or other typical obligations imposed on subcontractors. Los Angeles Engineering, Inc., instead of discussing the modifications, has requested the substitution of our client.

I submit that our client has not refused to enter into a subcontract agreement, is ready, willing and able to perform, is a Union signatory with proper staff, insurance, bonding, and manpower to perform the project, and there are no grounds for the substitution.



ABDULAZIZ, GROSSBART & RUDMAN

*Mary E. Alvarez, Commission Executive Assistant  
City of Los Angeles  
Board of Recreation and Park Commissioners  
October 7, 2008  
Page 2*

We hereby request a hearing of this matter.

Very truly yours,  
ABDULAZIZ, GROSSBART & RUDMAN

BRUCE D. RUDMAN

BDR:rkk  
cc: client

EXCERPT FROM THE MINUTES OF THE SPECIAL MEETING  
BOARD OF RECREATION AND PARK COMMISSIONERS  
NOVEMBER 7, 2008

GENERAL MANAGER'S REPORT:

08-289

GILBERT LINDSAY - NEW RECREATION CENTER (PHASE II)  
(#1400B)(W.O.#E170308F), CONTRACT NO. 3239 - HEARING ON  
OBJECTION TO SUBSTITUTION OF ROUGH CARPENTRY  
SUBCONTRACTOR

The Board held a hearing to determine whether to approve or deny the substitution request from Los Angeles Engineering, Inc., prime contractor for the Gilbert Lindsay - New Recreation Center (Phase II) (#1400B)(W.O.#E170308F), Contract No. 3239, to substitute the sub-listed contractor, Cal-Pacific Construction Company, Inc. with GSF Enterprises dba Golden State Framers, to perform the rough carpentry portion of the project. The request was made inasmuch as Cal-Pacific Construction Company did not enter a contract to perform the work.

Discussion ensued and public comment was held.

Motion

As a result of the Hearing, it was moved by Vice-President Sanchez, seconded by Commissioner Williams to approve the substitution. There being no objections, the Motion was unanimously approved.