

**APPROVED**  
AUG 12 2009

REPORT OF GENERAL MANAGER

NO. 09-201

DATE August 12, 2009

**BOARD OF RECREATION  
and PARK COMMISSIONERS**

C.D. 14

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: EVERGREEN RECREATION CENTER - CHILDCARE CENTER  
(W.O. #E170354F) - CONTRACT NO. 3184 - RELEASE OF STOP NOTICE

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

*[Handwritten initials]*

*[Handwritten signature: Kuroo. Page (for)]*  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

That the Board:

1. Acknowledge receipt of an affidavit from HMI Construction Services, General Contractor for the Evergreen Recreation Center – Childcare Center (W.O. #E170354F) project, Contract No. 3184, and, that no counter-affidavit was received from Electrical Systems Startup within the stipulated 20 days of their receipt of the affidavit; and,
2. Authorize the release of all funds currently held to satisfy the Stop Notice claim in the amount of \$48,586.81.

SUMMARY:

On October 25, 2007, the Department received a Stop Notice from Electrical Systems Startup (ESS) to withhold funds in the amount of \$48,586.81 from HMI Construction Services for the Evergreen Recreation Center – Childcare Center (W.O. #E170354F) project.

On May 13, 2009, the Department received an affidavit from HMI Construction Services challenging the aforementioned Stop Notice from ESS, stating that ESS had been paid for its services. Pursuant to California Civil Code section 3199, the Department forwarded a copy of the affidavit to ESS via certified mail and informed them that if a valid counter-affidavit was not received in the Board Office by June 10, 2009 (20 days after their receipt of the certified letter) the funds would be released to HMI Construction Services.

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No such counter-affidavit was received from ESS; therefore, in accordance with California Civil Code section 3200, the funds must be released to HMI Construction Services and the Board is released from any and all liability for said release of funds.

FISCAL IMPACT STATEMENT:

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

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