

APPROVED

08/20 2020

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 20-165

DATE August 20, 2020

C.D. 10

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: RANCHO CIENEGA SPORTS COMPLEX (RCSC) PROJECT — PHASE I (PRJ20308) (PRJ21190) (W.O. #E1907694) PROJECT- ACCEPTANCE OF AMENDED STOP PAYMENT NOTICE AND ACCEPTANCE OF BOND FOR RELEASE OF STOP PAYMENT NOTICE ON CONSTRUCTION CONTRACT NO. 3645 FOR PINNER CONSTRUCTION CO., INC.

AP Diaz _____ S. Piña-Cortez _____
H. Fujita _____ C. Santo Domingo _____
V. Israel _____ N. Williams _____

M. Olvera

General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

- 1. Direct staff to withhold the amounts claimed in the Amended Stop Payment Notice against Pinner Construction Co., Inc., as detailed in this Report and which is attached as Attachment 1 to this Report, plus an additional sum equal to 25% thereof, to defray any costs of litigation in the event of court action, if said amount of said funds are available, and to notify contractors, sureties, and other interested parties that the amount of said claims plus 25% will be withheld;
2. Accept the Bond for Release of Stop Payment Notice, filed by Pinner Construction Co., Inc., general contractor for the Rancho Cienega Sports Complex (RCSC) Project — Phase I (PRJ20308) (PRJ21190) (W.O. #E1907694) Project, which is attached hereto as Attachment 2 (Stop Payment Bond); and,
3. Direct the Board of Recreation and Park Commissioners (Board) Secretary to notify the contractor, surety, and other appropriate parties that the Stop Payment Bond was accepted.

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SUMMARY

AMENDED STOP PAYMENT NOTICE:

The Department of Recreation and Parks (RAP) is in receipt of a legal notice to withhold construction funds, pursuant to California Civil Code Sections 8044 on the following contract (Attachment 1):

Contract 3645 CD 10

Rancho Cienega Sports Complex (RCSC) Project — Phase I (PRJ20308) (PRJ21190) (W.O. #E1907694) Project	General Contractor:	Pinner Construction Co., Inc.
	Claimant:	Condon-Johnson & Associates, Inc.
	Amount:	\$297,861.00

BOND TO RELEASE MONEY WITHHELD ON STOP PAYMENT NOTICE

On July 29, 2020, the Department of Recreation and Parks (RAP) received the following Bond for Release of Stop Payment Notice (Attachment 2) for Money Withheld on Stop Payment Notice filed by Pinner Construction Co., Inc. (Bond), which will pay amounts recovered by the Claimant under the claim specified in its Amended Stop Payment Notice:

Contract 3645 CD 10

Rancho Cienega Sports Complex (RCSC) Project — Phase I (PRJ20308) (PRJ21190) (W.O. #E1907694) Project	General Contractor:	Pinner Construction Co., Inc.
	Claimant:	Condon-Johnson & Associates, Inc.
Project Impact: None	Amount:	\$372,326.25

The Bond was filed in accordance with California Civil Code Section 9364, which states, in part, the following: “(a) A public entity may, in its discretion, permit the direct contractor to give the public entity a release bond. The bond shall be executed by an admitted surety insurer, in an amount equal to 125 percent of the claim stated in the stop payment notice, conditioned for the payment of any amount the claimant recovers in an action on the claim, together with court costs if the claimant prevails. (b) On receipt of a release bond, the public entity shall not withhold funds from the direct contractor pursuant to the stop payment notice.”

FISCAL IMPACT STATEMENT

Acceptance of the Amended Stop Payment Notices and the Bond for Release of Stop Payment Notice has no impact on the RAP’s General Fund, as monies were previously appropriated for this project.

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This Report was prepared by Harold Arrivillaga, Commission Executive Assistant II, Board Office.

LIST OF ATTACHMENT(S)

- 1.) Amended Stop Payment Notice
- 2.) Bond for Release of Stop Payment Notice

AMENDED STOP PAYMENT NOTICE

(Public Works)

(This amends and increases the amount of Claimant's stop payment notice dated 6/16/2020)

TO: City of Los Angeles
 Department of Recreation and Parks
 Board of Recreation and Parks Commissioners
 221 North Figueroa Street, 3rd Floor, Suite 300
 Los Angeles, California 90012

YOU ARE HEREBY NOTIFIED that the undersigned claimant, Condon-Johnson & Associates, Inc., whose address is 480 Roland Way, Suite 200, Oakland, California 94621, has performed labor and furnished materials for the work of improvement known as: Rancho Cienega Sports Complex located at 5001 Rodeo Road, Los Angeles, California 90016.

The general nature of the materials and labor furnished is: Temporary shoring, driven piles, and related work.

The labor and materials were furnished to: Pinner Construction Co., Inc.

The total value of the whole amount of labor, equipment and materials agreed to be furnished is:	\$3,021,416.00
The value of the labor, equipment and materials furnished to date is:	\$3,021,416.00
Claimant has been paid the sum of:	\$2,723,555.00
There is now due, owing and unpaid the principal sum of at least:	\$297,861.00

WHEREFORE, the undersigned claims the benefit of the law given to laborers, material suppliers and others under and by virtue of the provisions of Section 8044 and Sections 9350, et seq. of the Civil Code of the State of California, and prays that you withhold from said direct contractor, Pinner Construction Co., Inc., whose address is 1255 South Lewis Street, Anaheim, California 92805 sufficient money that may be due Condon-Johnson & Associates, Inc. or that may become due Condon-Johnson Associates, Inc. for said work to answer and pay the amount of this claim.

Dated: 6/30/2020

Condon-Johnson & Associates, Inc.

Signature: Kristen Malik

Printed Name: Kristen Malik

Title: Controller

VERIFICATION

I, declare that I, Kristen Malik, am the Controller of the claimant named in the foregoing claim, and am authorized to make this verification for and on behalf of said claimant, and I make this verification for that reason. I have read said claim and know the contents thereof and the same is true and contains among other things, a correct statement of claimant's demands after deducting all just credits and offsets.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct on 6/30/2020.
 (Insert date)

Kristen Malik
 (Signature here)



Bond No. 6041012049Premium: \$ 7,447.00

**Bond for Release of Stop Payment Notice
(California Public Works)
Civil Code Section 9364**

KNOW ALL MEN BY THESE PRESENTS, That we, Pinner Construction Co., Inc., as Principal, and United States Fire Insurance Company, a corporation organized and existing under the laws of the State of DE and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto the City of Los Angeles, Public Entity, and to the claimant hereinafter named, all here in designated as the Obligee of this bond in the sum of ^{Three Hundred Seventy} Two Thousand Three ^{Hundred Twenty Six} Dollars and 25/100 Dollars (\$372,326.25), the payment of which, well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, Condon-Johnson & Associates, Inc., as Claimant, has filed with Public Entity a Stop Payment Notice for Public Work dated June 30, 2020, in the amount of ^{Two Hundred Ninety Seven Thousand} Eight Hundred Sixty One Dollars and 00/100 Dollars (\$297,861.00) pursuant to Chapter 4 of Title 3 of Part 6 of Division 4 of the California Civil Code; and the correctness or validity or enforceability thereof is disputed; and Public Entity shall permit the filing of this Bond for Release of Stop Payment Notice and upon such filing shall not withhold any money or bonds from Principal on account of said Stop Payment Notice;

NOW, THEREFORE, if the above named Principal shall fully protect the Obligee, herein, against any loss by reason of or arising out of the acceptance of this bond, or the release of said moneys, or the payment thereto to said Principal, and shall pay any sum which said Claimant may recover on said claim, together with the cost of suit in said action, not exceeding the penal sum of this bond, then this obligation shall be null and void, otherwise to remain in full force and effect.

Witness the hand and seal of the said Principal, and witness also the corporate seal of the said Surety and the signature of its duly authorized Attorney-in-Fact at Newport Beach, CA this 20th day of July, 2020.

Pinner Construction Co., Inc.

United States Fire Insurance Company

By: By: , Attorney-in-Fact

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Orange }
On 7-21-2020 before me, Teresa Parks, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Newton Kellem
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature Teresa Parks
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____
 Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____
 Partner – Limited General Partner – Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian or Conservator Trustee Guardian or Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On 11/11 20 2020 before me,
Date
personally appeared _____

Reece Joel Diaz, Notary Public
Here Insert Name and Title of the Officer
Jeri Apodaca
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
Corporate Officer -- Title(s): _____
Partner -- Limited : General
Individual : Attorney in Fact
Trustee : Guardian or Conservator
Other: _____
Signer Is Representing: _____

Signer's Name: _____
Corporate Officer -- Title(s): _____
Partner -- Limited : General
Individual : Attorney in Fact
Trustee : Guardian or Conservator
Other: _____
Signer Is Representing: _____

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

87921416119

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

*Rhonda C. Abel, Jeri Apodaca, Kim Luu, Michael D. Parizino, Rachelle Rheault,
Heather Sultarelli, James A. Schaller, Maria Guise, Reece Joel Diaz*

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Seven Million, Five Hundred Thousand Dollars (\$7,500,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2020.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

(a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;

(b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 25th day of March, 2019.

UNITED STATES FIRE INSURANCE COMPANY

ARR

Anthony R. Slimowicz, Executive Vice President



State of New Jersey }
County of Morris }

On this 25th day of March 2019, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

SONIA SCALA
NOTARY PUBLIC STATE OF NEW JERSEY
NO. 2163686
MY COMMISSION EXPIRES 3/25/2024

Sonia Scala

Sonia Scala

(Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

JUL 20 2020

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the _____ day of _____ 20

UNITED STATES FIRE INSURANCE COMPANY

Al Wright

Al Wright, Senior Vice President

