

APPROVED

NOV 20 2019

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 19-234

DATE November 20, 2019

C.D. 1

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: LINCOLN PARK RECREATION CENTER – POOL AND BATHHOUSE REPLACEMENT PROJECT (PRJ1504P) (W.O #E1907715) – WITHHOLDING OF PAYMENTS FOR AMOUNTS FORFEITED ON CONSTRUCTION CONTRACT NO. 3555

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



 General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

Direct staff to withhold contract payments as requested in the Request To Withhold Contract Payments against G2K Construction Inc., as detailed in this Report and as set forth in the Attachment to this Report.

REQUEST TO WITHHOLD CONTRACT PAYMENTS

The Department of Recreation and Parks (RAP) is in receipt of a Request to Withhold Contract Payments (Request) issued by the City's Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance for Contract 3555 (Contract) for the Lincoln Park Recreation Center (PRJ1504P) (W.O. # E1907715) Project. The requested withhold amount is \$301,639.92, which amount represents restitution and penalties incurred by North Pacific Electric as a subcontractor for G2K Construction, Inc., the general contractor, for underpayment of prevailing wages and other labor violations. The Request is supported by the Request for Approval of Forfeiture Amount and Disposition of the Case by the Labor Commissioner for the State of California, all of which is attached to this Report. Pursuant to California Labor Code Section 1727, RAP, as the awarding body of the Contract, is required to withhold and retain from monies due under the Contract all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner for prevailing wage and other labor violations for public works.

FISCAL IMPACT

Withholding of Payments for Amounts Forfeited as set forth in this Report has no impact on RAP's General Fund.

BOARD REPORT

PG. 2 NO. 19-234

This Report was prepared by Harold Arrivillaga, Commission Executive Assistant I.

ATTACHMENT

Request to Withhold Contract Payments

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: November 4, 2019 OCC File No: P16-599

To: Harold Arrivillaga
Commission Executive Asst. I
Department of Recreation & Parks
Office of the Board of Recreation
And Park Commissioners
Mail Stop #625/15

From: *LM*
Lynda McGlinchey, Compliance Program Manager II
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance

Subject: **REQUEST TO WITHHOLD CONTRACT PAYMENTS**

LINCOLN PARK RECREATION CENTER POOL & BATHHOUSE REPLACEMENT
E1907715

Prime Contractor: G2K Construction, Inc.
Subcontractor: North Pacific Electric

Please withhold the amount of **\$301,639.92** from the contract payments on the above listed project. This amount represents restitution and penalties incurred by North Pacific Electric as a subcontractor for G2K Construction, Inc. for underpayment of prevailing wages and other labor violations.

If you have any questions regarding this matter, please contact Tatiana Santa Cruz at (213) 847-2649.

Attachment

cc: tsc/chrono/file

Angela Martinez, BCA. Principal Construction Inspector
Mail Stop #480

Shun Yu Zhang, BOE Civil Engineer
Mail Stop #507



STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS-
DIV. OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) or CERTIFIED MAIL**

I, Cristina Dulce, do hereby certify that I am employed in the County of Los Angeles, over 18 years of age, not a party to the within action, and that I am employed at **and** my business address is:

State of California
Department of Industrial Relations
Division of Labor Standards Enforcement
300 Oceangate, Suite 850
Long Beach, CA 90802

On October 24, 2019, I served the within Request for Approval of Forfeiture Amount & Disposition of the Case by the Labor Commissioner, Contract Number 3555 by placing the original signed document thereof in an envelope addressed as follows:

City of Los Angeles/Dept. of Public Works
Office of Contract Compliance/Tatiana Santa Cruz
1149 South Broadway, Suite 300
Los Angeles, CA 90015

and then sealing the envelope and, with postage and certified mail fees if applicable thereon fully prepaid, depositing it in the United States mail in this city by:

XXX Ordinary first class mail
_____ Certified mail

I certify under penalty of perjury that the foregoing is true and correct.

Executed on October 24, 2019, at Long Beach, California


Cristina Dulce

City of Los Angeles/Office of Contract Compliance

REQUEST FOR APPROVAL OF FORFEITURE

1. AWARDING BODY LCP:

<p>Name and Contact Information: City of Los Angeles Department of Public Works Office of Contract Compliance Tatiana Santa Cruz 213-847-2649 tatiana.santacruz@lacity.org</p>	<p>Date of Request: October 21, 2019</p>
<p>Name and Contact Information for Awarding Body if different from LCP: City of Los Angeles Department of Recreation and Parks Jim Newsom Jimmy.newsom@lacity.org (818)6791453</p>	<p>LCP Approval Status (specify if either interim or temporary or if LCP has extended authority): Extended Authority</p>

2. PROJECT INFORMATION:

<p>Project Name: Lincoln Park Recreation Center-Pool and Bathhouse Replacement</p>	<p>Contract Number: 3555</p>
<p>Project Location: 3501 Valley Blvd., Los Angeles, CA 90031</p>	
<p>Bid Advertisement Dates: 04/06/2016</p>	<p>Estimated Date Project is to be completed: Unknown, 92% complete.</p>
<p>Acceptance Date of Project by the Awarding Body: Not yet accepted.</p>	<p>Notice of Completion/Date Recorded with County Recorder: No yet completed.</p>
<p>Other Relevant Deadline (specify): Not applicable</p>	<p>Amount being held in Retention: 0.00</p>

3. CONTRACTOR INFORMATION:

<p>Name and address of Affected Contractor: G2K Construction, Inc. 28348 Roadside Dr.#205 Agoura Hills, CA 91301</p>	<p>Name and address of Affected Subcontractor: North Pacific Electric 17953 Topham St. Encino, CA 91316</p>
<p>General Description of Scope of Work of the Entire Project: Demolition of the existing facility. Build a 3,400 sq.ft. pool, 1,360 sq.ft. splash pad, 1,000 sq.ft. equipment and chemical building 2,300 sq.ft. bathhouse, including administrative office space.</p>	
<p>General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract): Providing electrical materials to perform electrical demolition. Opening trenches for outdoor and underground raceways and conduits. New cables, wiring, grounding, and their connections. Installation of outdoor and indoor lighting as required. Installation of power cables and connections to breakers and transformers. Installation of light controller, switchgear, panel boards and protective devices and raceways for low voltage clock, voice, communication, and public address system.</p>	

4. LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:

Total Amount of Request for Notice of Withholding of Contract Payments: \$312,859.92			
Wages Due: \$196,937.62	Training Funds Due: \$3,122.30	Total Penalties Due: \$112,800.00	Potential Liquidated Damages [Wages + Training Funds]: \$200,059.92
LC 1775 Penalties Due: \$112,200.00	LC 1813 Penalties Due: \$600.00	LC 1776 Penalties Due: 0.00	Other:
Prior History of Contractor: Previous assessment on underpayment of wages.			

G2K Construction, Inc. (G2K) entered into a subcontract with North Pacific Electric (NPE). Under this contract, NPE supplied and installed electrical systems on the Lincoln Park Recreation Center-Pool and Bathhouse Replacement project. NPE failed to pay the prevailing wages to workers and failed to report the correct number of hours worked on the project.

On March 26, 2019, the Center for Contract Compliance (CCC) forwarded to the Office of Contract Compliance (OCC) a worker's complaint filed against NPE. The worker had just learned this project was a public work, and he understood that he should have received a prevailing wage rate, not the eighteen-dollar hourly wage (\$18.00/h) he was paid by NPE. The OCC subsequently interviewed five other workers. Each of these workers stated that they were paid an amount that was significantly less than the prevailing wage. While conducting the investigation, the OCC reviewed and compared the worker's statements, NPE's payrolls, workers' canceled checks, the construction inspector's daily and weekly job reports, and the contractor's daily job reports. The analysis of this evidence confirms that workers employed by NPE were reported for fewer hours than they worked on the project.

On June 25, 2019, the OCC sent an assessment for the underpayment of wages by NPE to G2K (Attachment #1). In response, NPE provided additional information including G2K's Contractor's Daily Job Reports. The OCC's review of the additional information resulted in an increase to the original assessment. On August 22, 2019, the OCC sent a revised assessment for the underpayment of wages (Attachment #2). The OCC conducted a second settlement meeting where we explained the violations and requested payment of back wages and benefits.

NPE has not been able to explain the difference between the workers' canceled checks and amounts reported on the certified payrolls. NPE failed to submit paystubs and provided incomplete and inadequate payroll information in response to the OCC's request.

The OCC found that G2K and NPE attempted to circumvent and disregard the prevailing wage laws and regulations of the State of California. Therefore, the OCC recommends that the full penalties permitted under California Labor Code Sections 1775 and 1813 be applied. The Office of Contract Compliance requests approval to withhold restitution in the amount of **\$196,937.62**, penalties in the amount of **\$112,800.00**, and training fund contributions in the amount of **\$3,122.30**.

Send the Request and all Attachments to:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
Attn.: Regional Manager
300 Oceangate Blvd., No. 850
Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

◆ *Disposition of the Case by the Labor Commissioner*
DLSE # 3122

**Project: Lincoln Park Recreation Center-Pool and Bathhouse
Replacement**

Approved as a Modified Disposition:

Wages: **\$196,937.62**

Training: **\$3,122.30**

LC 1775: **\$100,980.00 (561 violations @\$180 each)**

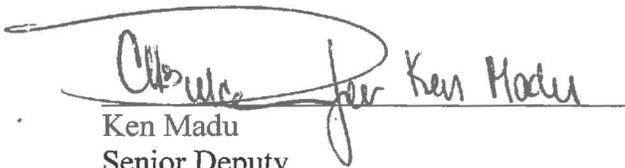
LC 1813: **\$600.00**

LC 1776 (g) Penalties: **\$0.00**

LC 1777.7: **\$0.00**

TOTAL: \$301,639.92

*Please note: Pursuant to CCR16439 (a) A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1 (b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.


Ken Madu
Senior Deputy

Date

10-24-19

cc: City of Los Angeles
G2K Construction, Inc.
North Pacific Electric
File