

**APPROVED**

REPORT OF GENERAL MANAGER

APR 05 2007

NO. 07-76

DATE April 5, 2007

**BOARD OF RECREATION  
and PARK COMMISSIONERS**

C.D. 2

**BOARD OF RECREATION AND PARK COMMISSIONERS**

**SUBJECT: BRANFORD RECREATION CENTER - CHILDCARE CENTER (#1617D)  
(W.O. #E170237F) - CONTRACT NO. 3004 - FINAL ACCEPTANCE AND  
ACKNOWLEDGEMENT OF PREVIOUSLY RELEASED RETENTION FUNDS  
TO THE SUPERIOR COURT BY WAY OF INTERPLEADER**

R. Adams	_____	J. Kolb	_____
J. Combs	_____	F. Mok	_____
H. Fujita	_____	K. Regan	_____
S. Huntley	_____	*M. Shull	<i>one from MS.</i>

*[Signature]*  
 \_\_\_\_\_  
 General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

**RECOMMENDATION:**

That the Board:

1. Approve the final acceptance of work performed under Contract No. 3004 as outlined in the body of this report;
2. Acknowledge that the Department's Chief Accounting Employee previously released all retention funds held by the Department in the amount of \$209,943.20, to the Clerk of the Superior Court for distribution to the parties of the Interpleader action in the case of City v. Tim Bielski, Case No. BC 336673; and,
3. Authorize the Board Secretary to furnish Datum Group, Inc., with a letter of completion.

**SUMMARY:**

The construction contract for Branford Recreation Center – Childcare Center (#1617D) (W.O. #E170237F) project was awarded to Datum Group, Inc., on June 13, 2001 (Board Report No. 01-212), in the amount of \$1,157,000. The project, which was completed on October 10, 2003, provided for the construction of a new childcare center.

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The Bureau of Engineering, Construction Management Group (CMG), completed the contract administration of the project under the Proposition K Program. The Program Manager advised the Department in writing on May 17, 2004, that the project was complete and the contractor had furnished the required permits, drawings, operation and maintenance manuals, and guarantees. Unfortunately, before the project could be accepted as completed, the outstanding wage violations and Stop Notices had to be settled first, as well as settlement of a legal claim between Datum Group, its bonding company, and a number of sub-contractors.

The Proposition K Program Manager has informed the Department that CMG completed this project with twenty-two Change Orders being issued for a total of \$11,760 or 0.1% of the base contract amount. The final construction contract amount is \$1,168,760.

Department staff consulted with the Office of Contract Compliance concerning the status of the labor compliance requirements and Affirmative Action requirements on the project. There were outstanding wage violations and the contractor, Datum Group, Inc., was sued in Superior Court. Under a settlement agreement, the retention funds held by the City, in the amount of \$209,943.20, were provided to the court to settle the outstanding wage violations, Stop Notices, and Assignment of Funds issues. The case was deemed settled on June 23, 2006. The Department is holding no other funds on behalf of the contractor for this project and this final acceptance is the only action required to closeout the project.

### FISCAL IMPACT STATEMENT:

The operation and maintenance costs of the Branford Recreation Center are already included in the Department's current General Fund annual budget appropriation.

This report was prepared by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program, Bureau of Engineering. Reviewed by Bradley M. Smith, Chief Deputy City Engineer, Bureau of Engineering.