

REPORT OF GENERAL MANAGER

NO. 05-297

DATE November 2, 2005

C.D. 5

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: SEPULVEDA GARDEN CENTER – BUILDING REPLACEMENT (#1632E)
(W.O.#E170220F) - ASSIGNMENT OF FUNDS)

J. Combs	_____	J. Kolb	_____
H. Fujita	_____	F. Mok	_____
S. Huntley	_____	K. Regan	_____
B. Jensen	_____	*M. Shull	<u>MS</u>



 General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATION:

That the Board approve the following request for Assignment of Funds to First National Insurance Company of America.

SUMMARY:

Assignment of Funds to Surety

The Department is in receipt of a letter dated August 30, 2005, from Booth, Mitchel and Strange, LLP, representing First National Insurance Company of America (FNICA), the Surety for Pert Construction Co., Inc. (Pert), stating that they are seeking an Assignment of Funds on the Sepulveda Garden Center – Building Replacement (#1632E) (W.O. #E170220F), Contract No. 3091.

Pert signed a General Agreement of Indemnity for Contractors (GAIC) with FNICA when it began the project. By this, it assigned its rights to the Project’s contract funds to FNICA if it defaulted.

Although the project is 100% complete, Pert defaulted when it failed to pay its subcontractors and suppliers for their work. Under the payment bond agreement, FNICA paid all stop notice claimants on the project. At this time, FNICA claims interest in any and all remaining contract funds based upon its subrogation rights under Civil Code §2848 and upon the assignment of all Stop Notices. The City Attorney has reviewed and concurs with this request.

Prepared by Sonia Bond, Commission Executive Assistant I, Commission Office.