

(RA-95-50)  
REDEVELOPMENT AGENCY OF  
THE CITY OF SAN DIEGO  
RESOLUTION NO. 2439  
ADOPTED ON NOVEMBER 1, 1994

WHEREAS, on July 25, 1994, the Redevelopment Agency of The City of San Diego (the "Agency") entered into Contract No. AC 9400474 ("Gaslamp Quarter Park Contract") with West Coast General Corporation ("WCG"), on file in the offices of the Centre City Development Corporation ("CCDC"); and

WHEREAS, the Agency authorized CCDC to administer the Gaslamp Quarter Park Contract on behalf of the Agency for the construction of improvements in the Gaslamp Quarter Sub Area of the Centre City Redevelopment Project; and

WHEREAS, in Bid Document No. K94215RD submitted by WCG to CCDC for the Gaslamp Quarter Park Contract, on file in the offices of CCDC, WCG did not list and was therefore not authorized by CCDC or the Agency to utilize any electrical subcontractor to complete any portion of the work covered by the Gaslamp Quarter Park Contract; and

WHEREAS, WCG made affirmative representations to CCDC at the time Bid No. K94215RD was submitted to CCDC that WCG was fully qualified to perform the electrical portion of the Gaslamp Quarter Park Contract; and

WHEREAS, on September 12, 1994, WCG commenced construction pursuant to the Gaslamp Quarter Park Contract; and

WHEREAS, on November 1, 1994, a public hearing was docketed on the regular agenda of the Agency to determine whether WCG was in default of the Gaslamp Quarter Park Contract and whether WCG had violated the Subletting and Subcontractors Fair Practices Act by utilizing an unauthorized electrical subcontractor; and

WHEREAS, on November 1, 1994, evidence was presented to the Agency by CCDC, which included: a staff report, a letter of protest from Will Bendix Inc., and a letter of protest from the Latino Builders Association. In addition, the Agency heard testimony from: CCDC Senior Vice President Pamela M. Hamilton, CCDC Resident Field Engineer Gary Bosse, and Tom Gade, Esq., representing complainant Will Bendix Inc.; and

WHEREAS, on November 1, 1994, evidence was presented to the Agency by WCG in the form of testimony by Bob Marks, Esq., who represented that the relationship between WCG and those performing electrical work at the job site was that of employer and employee and not contractor and

subcontractor; and

WHEREAS, the Agency had ample opportunity to ask and did ask a number of questions of the representatives from CCDC and WCG regarding the relationship between WCG and those individuals performing electrical work at the job site; NOW THEREFORE, having considered all the evidence,

BE IT RESOLVED, that the Redevelopment Agency of The City of San Diego, as follows:

1. That WCG utilized an unauthorized electrical subcontractor in the performance of the Gaslamp Quarter Park Contract in violation of section 6-4 of The Standard Specifications for Public Works Construction, and therefore is in default of the Gaslamp Quarter Park Contract.

2. That WCG utilized an unauthorized electrical subcontractor in the performance of the Gaslamp Quarter Park Contract in violation of Section 4106 of the Public Contract Code.

BE IT FURTHER RESOLVED, that the Redevelopment Agency of The City of San Diego authorizes the Executive Director or designee of the Agency to execute necessary agreements with the Surety for the Gaslamp Quarter Park Contract, United States Fidelity and Guaranty Company, and any replacement contractor selected by the surety in order to ensure that the Gaslamp Quarter Park Contract is completed in a diligent manner and at a price to the Agency not to exceed what was agreed to with WCG.

APPROVED: JOHN W. WITT, General Counsel

By

Richard A. Duvernay

Deputy Counsel

RAD:lc

11/08/94

Or.Dept:CCDC

Aud.Cert:N/A

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