

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: April 9, 2013

CAO File No. 0220-04698-0011
Council File No. 11-1901
Council District: 15

To: The Mayor
The Council

From: Miguel A. Santana, City Administrative Officer

MAS

Reference: Community Redevelopment Agency

Subject: **REFUND \$299,625 TO THE COMMUNITY REDEVELOPMENT AGENCY/LOS ANGELES FOR CONSTRUCTION SERVICES WHICH WERE NOT PERFORMED ON THE WARNER GRAND THEATER REHABILITATION PROJECT**

SUMMARY

This Office requests Council approval to refund \$299,625 to the Community Redevelopment Agency / Los Angeles (CRA/LA), A Designated Local Authority and Successor Agency to the former Community Redevelopment Agency (Agency), which was an advance payment to the Department of General Services (GSD) for construction services which were not performed on the Warner Grand Theater (Theater) Rehabilitation Project (Project). On August 31, 2009, the former Agency and the GSD's Construction Forces Division (CFD) executed a three-year, \$10 million Cooperation Agreement which started August 31, 2009 and ended August 31, 2012 (CRA/LA Contract No. 503391, C.F. 09-0523). Contract No. 503391 was a blanket contract for engineering services and contractors for construction, demolition and maintenance services for various CRA/LA projects. On January 23, 2012, the former Agency issued a \$300,000 check to CFD for certain improvements to the Theater in accordance with Contract No. 503391. On February 1, 2012, redevelopment agencies, including the former Agency, were dissolved by operation of law in accordance with Assembly Bill (AB) 1x-26. The CRA/LA has made the determination that Contract No. 503391 was invalidated effective February 1, 2012 pursuant to the redevelopment dissolution law (AB1x-26 and AB 1484), the work associated the Project cannot proceed and that all retained, unexpended funds must be returned to the CRA/LA. On February 27, 2013, the CRA/LA sent the GSD a letter requesting the return of the \$299,625 in unexpended Project funds (Attachment One).

The CRA/LA issued a Stop Work Notice to CFD for the Project on March 23, 2012 (Attachment Two). Even though the CFD stopped working on the Project, it had expended a total of \$375 on GSD overhead labor changes which will be paid from the \$300,000 advance payment, leaving a retained project balance of \$299,625. The City's outside legal counsel for CRA/LA dissolution matters, Richards Watson Gershon, has reviewed the CRA/LA's request related to the return of the \$299,625 and has recommended that the City refund the amount to the CRA/LA. City Council approval is necessary to refund amounts greater than \$44,958, per a City Controller memorandum dated August 17, 2012 to all City Department heads. The source of funds for the refund will from Fund 100/40 General Services. This Office recommends approval to refund the \$299,625 to the CRA/LA.

Background

Pursuant to Contract No. 503391, the CFD and the former Agency executed Work Order No. 039 in an amount not to exceed \$400,000 for the Project on March 15, 2011. Upon execution of the work order and prior to the commencement of any work, the former Agency advanced \$300,000 to CFD in accordance with Work Order No. 039 (Attachment Three). The scope of work included the following improvements to the Theater:

- Replace the building roofing, re-direct pooling water and repair storm drains, and leaking piping.
- Replace the existing sump pump.
- Repair damage/cracked terrazzo at the front entrance of the Theater.
- Cleaning, repair and replacement of the missing rose marble at Theater entrance including repair of the bulkhead to match the existing material.
- Repair of peeling paint on the ceiling of the Theater and lobby of second floor balcony.
- Repair of bathrooms in the basement and on the second floor.
- Restoration of ceiling and wall murals in the lobby.
- Complete the related plumbing and electrical work for the items above.

The Theater is managed by the Department of Cultural Affairs, in partnership with the nonprofit Grand Vision Foundation. On November 3, 2011 and January 3, 2012 respectively, the former Agency and the Council conditionally approved the use of up to \$1,000,000 in tax increment funds from the Pacific Corridor Redevelopment Project Area for construction services for the Theater (C.F. 11-1901). The total Project budget was \$1,000,000 to be comprised of \$400,000 funded through Work Order No. 039 and \$600,000 for additional Theater improvements to be funded with future-year tax increment, subject to availability of funds. The \$1,000,000 Project budget was subject to: a) the California Supreme Court (Court) partial stay of the redevelopment dissolution legislation which had placed a number of restrictions on redevelopment activities until the Court could make a ruling; and, b) provisions of AB1x-26 being overturned. On December 29, 2011, the Court upheld AB1x26 and redevelopment agencies were dissolved on February 1, 2012 by operation of law.

Redevelopment Dissolution Law

AB1x26 provided that, with only very limited exceptions, enforceable obligations for the Successor Agency do not include contracts between with the City and the former Agency. Pursuant to AB1x26, contracts between with the City and the former Agency, including Contract No. 503391, are invalid and not binding effective February 1, 2012. The redevelopment dissolution law created a new administrative process through which the business of the former Agency is wound down and concluded. As part of this administrative process, all proposed expenditures by the CRA/LA must be listed on a Recognized Obligation Payment Schedule (ROPS), a six-month expenditure plan, and must be approved by CRA/LA's Governing Board, Oversight Board and the State Department of Finance (DOF) which possesses final authority.

Over the life of the former Agency, the City and the former Agency entered into numerous written agreements. If the CRA/LA's Governing Board wishes to reenter into contracts with the City, then it may do so upon obtaining approval of the Oversight Board and the DOF. As part of ROPS 3 (the six-month expenditure plan for the period beginning January 1, 2013 and ending June 30, 2013), the CRA/LA included Contract No. 503391 (DOF Line No. 104, ROPS No. 0709) as an Enforceable Obligation. ROPS

No. 0709 totaled \$324,409 and was to pay the unpaid balances for a total of seven work orders. Work Order No. 039 was originally for \$400,000, of which \$300,000 was advanced paid to CFD and the remaining \$100,000 was never paid to CFD. The \$324,409 included the \$100,000 unpaid balance for Work Order No. 039 and \$224,409 in unpaid balances for the other six work orders.

On July 19, 2012, CRA/LA's Governing Board approved ROPS 3 which included the re-entry of a total of 10 Cooperation Agreements between the former Agency and City including Contract No. 503391. In August 2012, the Oversight Board also approved the re-entry of the 10 Cooperation Agreements when it approved ROPS 3 without alteration. On August 31, 2012, ROPS 3 was submitted to DOF for review and approval. On October 11, 2012, the DOF issued its initial determination letter and rejected the re-entry of the 10 Cooperation Agreements between the City and the former Agency. The CRA/LA, with cooperation from the Mayor's Office, City Administrative Officer and Chief Legislative Analyst, met and conferred with DOF on November 28, 2012 regarding various denied items including the 10 Cooperation Agreements. On December 26, 2012, the DOF issued its final determination letter and upheld its rejection of the 10 re-entry Cooperation Agreements. If an item is denied by the DOF, the CRA/LA is not allowed to expend funds for that item. The City has exhausted all administrative remedies relative to the 10 re-entry Cooperation Agreements and is currently exploring its options including legal.

The recommendations in this report regarding the return of the unexpended Project funds to the CRA/LA comply with the City Financial Policies in that they enable the City to return funds for work which was not completed due to the dissolution of the former Agency.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Approve the return to the Community Redevelopment Agency/Los Angeles (CRA/LA), A Designated Local Authority and Successor Agency to the former Community Redevelopment Agency, a total of \$299,625 which is a refund for an advance payment for construction services which were not performed on the Warner Grand Theater Rehabilitation Project; and,
2. Authorize the City Controller to refund \$299,625 to the CRA/LA from Fund 100/40 General Services as follows:

Account	Title	Amount
001014	Construction Salaries	\$177,053.22
001191	Hiring Hall Overtime	58,947.16
003180	Construction Materials and Supplies	63,624.62
	Total	\$299,625.00

FISCAL IMPACT STATEMENT

The impact is \$299,625 to issue a refund for an advance payment for construction services which were not performed on the Warner Grand Theater Rehabilitation Project (Project). Approval of the recommendations in this report will authorize a refund of \$299,625 from 100/40 General Services to the CRA/LA for the retained balance associated with the Project.



1200 W. 7th Street / Suite 200
Los Angeles / California 90017

DATE / February 27, 2013

FILE CODE /

T 213 977 1600 / F 213 977 1665
www.crala.org

Mr. Tony Royster, General Manager
Mr. Nick Pendorf, BC & M General Superintendent
Department of General Services
Construction Forces Division
111 E. First Street, 6th Floor
Los Angeles, CA 90012

RE: Contract Number 503391 – Work Order Number 039

Dear Messrs. Royster and Pendorf:

On March 23, 2012, the CRA/LA issued a Stop Work Notice for Work Order number 039 under contract number 503391. Work Order number 039 was associated with the Warner Grand Theater Rehabilitation Project in the amount of \$400,000; of which \$300,000 was paid via check no. 2079679 issued on January 23, 2012.

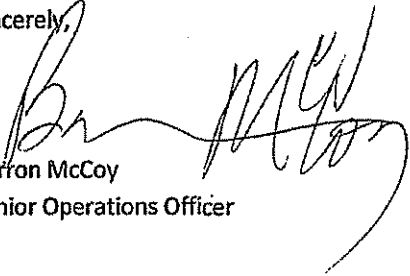
On November 9, 2012 your office confirmed that the work on the aforementioned project ceased and that the retained project balance was as follows:

<u>Project</u>	<u>Amount Funded</u>	<u>Amount Expended</u>	<u>Retained Balance</u>
Warner Grand Theatre	\$300,000	\$375	\$299,625

CRA/LA has determined that pursuant to AB 26 and AB 1484 and the invalidation of the above referenced contract and work order, the work associated with the above identified project cannot proceed and that all retained, unexpended funds must be returned. *Therefore, please return a total of \$299,625 to CRA/LA upon receipt of this letter.*

If you have any questions regarding this letter, please give me a call at (213) 977-1715.

Sincerely,


Barron McCoy
Senior Operations Officer



DATE / MAR 23, 2012
FILE CODE / PA2150

1200 W. 7th Street / Suite 200
Los Angeles / California 90017

T 213 977 1600 / F 213 977 1665
www.crala.org

Mr. Tony Royster, General Manager
Department of General Services
Construction Forces Division
111 E. First Street, 6th floor
Los Angeles, CA 90012

Attn: Nick Pendorf, Director

Re: Stop Work Notice
Contract No. 503391, Work Order No. 039
Warner Grand Theater Rehabilitation

Dear Nick:

This letter serves as an official Stop Work Notice on Work Order No. 039, issued on March 15, 2011, to provide construction services of Building Rehabilitation for the Warner Grand Theater located at 478 W. 6th Street in the Pacific Corridors Redevelopment Project Area within the Los Angeles Harbor Region of the City of Los Angeles.

The CRA/LA, A Designated Local Authority (Successor Agency to the Community Redevelopment Agency of the City of Los Angeles, CA) decision to suspend work on this Work Order is a result of the Governor's signature on Assembly Bills 1X-26 and 1X-27 that directly impacts the activities of California redevelopment agencies including the CRA/LA, A Designated Local Authority's ability to continue work related to certain redevelopment projects.

If you have any questions regarding this notice please contact Jenny Scanlin, Regional Administrator II, Downtown Region at (213) 922-7825.

Sincerely,

Jay Shih
Director of Engineering

Attachment: Work Order No. 039

THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES, CALIFORNIA

NOTICE TO PROCEED
WORK ORDER NO. ~~041~~ 039
CONTRACT NO. 503391

Date: MAR 15 2011 REVISED

Construction Forces Division
Department of General Services
111 E. First Street, 6th Floor
Los Angeles, CA 90012

CFD Work Order No.:
Account Code: 9133.770.PA2150.6280

Attention: Mr. Nick Pendorf
BC & M General Superintendent

Subject: Warner Grand Theater Rehabilitation

YOU ARE REQUESTED TO PROVIDE THE FOLLOWING SERVICES:

DETAILS OF WORK

Pursuant to Article II, provide construction services of Building Rehabilitation (Public Improvement/Contractors) for the Warner Grand Theatre located at 478 W 6th Street in the Pacific Corridors Redevelopment Project Area within the Los Angeles Harbor Region. The scope of work shall include the following:

- Replace the building roofing, re-direct pooling water, and repair storm drains and leaking piping.
- Replace the existing sump pump.
- Repair damaged/cracked terrazzo at the front entrance of the theater.
- Cleaning, repair, and replacement of the missing rose marble at theater entrance including repair of the bulkhead to match the existing material.
- Repair of peeling paint on the ceiling of the theater and lobby of 2nd story balcony.
- Repair of bathrooms in the basement and on the 2nd floor.
- Restoration of ceiling and wall murals in the lobby.
- Complete the related plumbing and electrical work for the items above.

TIME OF PERFORMANCE

Services shall commence upon execution of this work order and shall be completed as directed by the CRA/LA.

COMPENSATION

Pursuant to Article VIII, compensation for the above services shall not exceed FOUR HUNDRED THOUSAND DOLLARS AND 00/100 (\$400,000.00). Compensation shall be a fixed price inclusive of all direct and indirect expenses.

Payment Terms: The amount of \$300,000.00 shall be paid upon execution of this work order prior to CFD commencing any work.

**DUPLICATE
ORIGINAL**

Contract No. 503391
Work Order No. ~~041~~ 039

Invoices shall be submitted via email ONLY to the CRA/LA Accounting Department at accounting@cra.lacity.org with a copy to Wanda Starks at wstarks@cra.lacity.org. Invoices shall contain the date, the CRA/LA contract number, the CRA/LA work order number, and the CRA/LA department administering the Contract – the Engineering Dept. Invoices submitted for payment must comply with the work order payment schedule to help prevent delays in processing. If you have any questions regarding invoices, please call Wanda Starks at (213) 977-1820.

If you have any questions regarding this work order please call the CRA/LA Project Engineer Virginia Lit at (213) 977-1754. Your staff shall not follow directions provided by other CRA/LA staff without obtaining prior authorization from the Project Engineer.

UNDER CONTRACT PROVISIONS ARTICLES I THRU IX DATED AUGUST 31, 2009.

THE COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF LOS ANGELES, CALIFORNIA

By: 
Christine Essel
Chief Executive Officer

ACCEPTANCE:

Consultant: Construction Forces Division,
Department of General Services

By: 
Signature

DNY ROYSTER MAR 15 2011
Name Date

 Contract No. 503391
Work Order No. 041 039