

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

PAUL G. MARSHALL, JR. et al.,

Plaintiffs and Respondents,

v.

PASADENA UNIFIED
SCHOOL DISTRICT,

Defendant and Appellant;

HAYWARD CONSTRUCTION
COMPANY, INC.,

Real Party in Interest.

B160520

(Los Angeles County
Super. Ct. No. GS006578)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on June 29, 2004, be modified as follows:

1. On page 19, in the second full paragraph of Section 4, delete the final sentence of the paragraph and the citation, beginning with the word "Further."
2. On page 19, immediately after the second full paragraph in Section 4, insert the following paragraph and footnote.

However, the rule cited by the District has been superseded by section 5110, which entitles a contractor who proceeded with construction "based upon a good faith belief that the contract was valid" (§ 5110, subd. (a)(1)) to recover the reasonable cost of

the work performed, irrespective of a later determination that the contract is “invalid due to a defect or defects in the competitive bidding process caused solely by the public entity” (§ 5110, subd. (a).)¹⁴

3. On page 19, line 21, delete the word however and the comma which follows it.
4. On page 20, line 2, delete the word which.

The petition for rehearing is denied.

[There is no change in judgment.]

¹⁴ In adopting section 5110, the Legislature declared its intent that a contractor “may be paid the reasonable cost, specifically excluding profit, of labor, equipment, materials, and services that were rendered under a contract that was competitively bid, but subsequently determined to be invalid, in order to avoid unjust enrichment of the public entity and an unlawful taking of the contractor’s property.” (Stats. 2003, ch. 678, § 1.)