

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRIGHTERGY LOUISIANA, LLC

CIVIL ACTION

VERSUS

NO: 20-2018

GALCAN ELECTRIC & GENERAL
CONTRACTING, LLC

SECTION: "A" (2)

ORDER AND REASONS

The following motion is before the Court: **Motion for Partial Summary Judgment (Rec. Doc. 89)** filed by the Defendant, third-party plaintiff, and plaintiff in counter-claim, GalCan Electric & General Contracting, LLC ("GalCan"). The plaintiff, Brightergy Louisiana, LLC d/b/a Influent Energy ("Influent"), opposes the motion. The motion, submitted for consideration on August 4, 2021, is before the Court on the briefs without oral argument.

On October 2, 2017, Influent and Entergy New Orleans, Inc. ("Entergy") entered into a contract for Distributed Generation Program Engineering, Procurement, and Construction pertaining to the installation of solar panels at various sites. The Court will refer hereinafter to this contract as "the Master Agreement." (Rec. Doc. 50-4, Exhibit A).

To effectuate the project, Entergy leased the rooftop of buildings owned by the New Orleans Regional Transit Authority ("RTA") for the installation of solar panels.

Influent then entered into a Subcontract Agreement with GalCan (Rec. Doc. 50-4, Exhibit B) in order to satisfy its obligations under the Master Agreement. The Master Agreement is an exhibit to the Subcontract Agreement, and that latter document makes clear that GalCan was bound by each and every covenant, obligation, and provision contained in the Master Agreement, to the same extent that Influent was bound. One of the

Master Agreement's provisions was an obligation to ensure that no liens of any kind were created on the property at issue in the contract.

Influent ultimately became dissatisfied with GalCan's performance under the Subcontract Agreement and it terminated that contract on March 16, 2020. On June 18, 2020, GalCan filed a Labor and Material Lien and Statement of Claim (at times "the Lien") against property located at 8225 Willow Street in New Orleans stating that \$347,499.09 is owed. The Willow Street property is owned by RTA.¹ Influent was required to file a release bond in the amount of \$434,373.86 in order to secure release of GalCan's lien.² (Rec. Doc. 50-6, Exhibit C).

Influent filed the main demand against GalCan to pursue damages for breach of contract and to challenge the lien that GalCan filed against RTA's property on Willow Street, which Influent contends was done in breach of the Subcontract Agreement. GalCan answered the complaint and it filed (in addition to a counterclaim against Influent) third-party demands against Entergy New Orleans, Inc. and RTA.

On January 25, 2021, the Court denied Influent's motion for summary judgment explaining why Influent could not obtain judgment as a matter of law on its breach of contract claim (the specific breach being GalCan's filing of the Lien) at that time. (Rec. Doc. 60, Order and Reasons).

On March 11, 2021, the Court granted in part and denied in part GalCan's motion for partial summary judgment on the issue of indemnity under Sections 10 and 11 of the

¹ As the Court has previously noted, there are references in the record to property located at 8201 Willow Street in New Orleans. This case involves the Lien filed against the property located at or near 8225 Willow Street in New Orleans, which is RTA's Carrollton Station.

² Influent advises that it risked not being paid by Entergy as a result of GalCan's lien against RTA's property.

Subcontract Agreement. (Rec. Doc. 77, Order and Reasons).

On July 26, 2021, the Court denied GalCan's motion for partial summary judgment on the issue of whether it was subject to a binding contractual prohibition on filing the Lien on the Willow Street property. (Rec. Doc. 94, Order and Reasons). The basis of that motion was GalCan's contention that the Master Agreement was a nullity because Influent did not have a contractor's license when it executed the contract with Entergy.

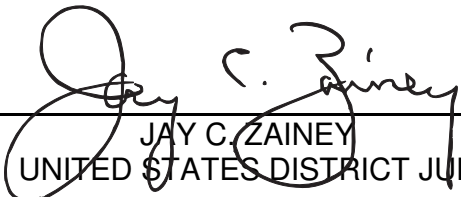
GalCan now moves for partial summary judgment once again on the issue of whether it was subject to a binding contractual prohibition on filing the Lien on the Willow Street property. This time the basis of GalCan's motion is its contention that the rooftop lease agreement between Entergy and RTA was a nullity because Entergy did not have a contractor's license when it executed the contract with RTA.

For the reasons argued in the opposition filed by Influent and Entergy (Rec. Doc. 92, Opposition), and for the reasons that the Court provided when it denied GalCan's last motion for partial summary judgment (Rec. Doc. 94, Order and Reasons), the instant motion for partial summary judgment is denied.

Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion for Partial Summary Judgment (Rec. Doc. 89)** filed by the Defendant, third-party plaintiff, and plaintiff in counter-claim, GalCan Electric & General Contracting, LLC, is **DENIED**.

August 11, 2021



JAY C. ZAINES
UNITED STATES DISTRICT JUDGE