

Folsom City Council Staff Report

MEETING DATE:	6/27/2023
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 11057 - A Resolution Authorizing the City Manager to Execute a Construction Agreement with Central Valley Engineering and Asphalt, Inc. for the Blue Ravine Road Pavement Rehabilitation Fiscal Year 2022-23 Project PW8017 and Appropriation of Funds
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 11057 - A Resolution Authorizing the City Manager to Execute a Construction Agreement with Central Valley Engineering and Asphalt, Inc. for the Blue Ravine Road Pavement Rehabilitation Fiscal Year 2022-23 Project PW8017 and Appropriation of Funds.

BACKGROUND / ISSUE

The Public Works Department manages the City of Folsom's Pavement Management Program, which includes funding for the repair, resurfacing, and maintenance of roadways in the city.

This project will rehabilitate the pavement on Blue Ravine Road between Prairie City Road and East Bidwell Street.

In addition to pavement rehabilitation, other important aspects of the project include a rubberized asphalt overlay, upgrades to pedestrian facilities with the installation of Americans with Disabilities Act (ADA) compliant ramps, vehicle video detection at signalized intersections, and enhanced wet-night visibility traffic striping. The majority of the work will be performed between 8:00 PM and 6:00 AM to avoid causing traffic congestion during daytime hours. Appropriate notification will be given to the surrounding properties that may be affected.

In February 2022, the City of Folsom (City) contracted with Kimley-Horn and Associates, Inc., to conduct a pavement evaluation of Blue Ravine Road, which consisted of visual observations, asphalt core testing, pavement deflection testing, testing results analysis, and preparation of the project plans, specifications, and estimate. The report recommended that the distressed pavement could be repaired by either the traditional method of “mill & fill” or by utilizing a Cold In-Place Recycling (CIR) process. Based on a cost analysis performed by Kimley-Horn, the CIR option was chosen due to the ability to rehabilitate a much larger area for less cost than traditional methods. This will be the second time that the City has utilized the CIR process. The first CIR project was completed in 2019 on Greenback Lane and has been performing as expected.

This project is expected to begin in August 2023 and be completed by October 2023.

POLICY / RULE

Section 2.36.120 of the Folsom Municipal Code states, in part, that contracts for supplies, equipment, services, and construction with an estimated value of \$70,952 or greater shall be awarded by the City Council.

ANALYSIS

Public Works staff prepared the bid package, and the project was publicly advertised on May 1, 2023. On May 31, 2023, the Public Works Department received the following bids:

- Central Valley Engineering & Asphalt \$ 1,988,969
- B & M Builders \$ 2,012,899
- Martin Brothers Construction \$ 2,273,355.70
- Dutch Contracting \$ 2,382,417.45
- Mountain Cascade \$ 2,520,473.40

The Engineer’s Estimate for this project was \$2,120,000. The Public Works Department has evaluated the bids received and recommends that the contract be awarded to the low-bidder, Central Valley Engineering & Asphalt, Inc.

The city received a letter from the Foundation for Fair Contracting (FFC), a nonprofit organization whose objective is to monitor compliance with prevailing wage laws pertaining to the construction industry. Their letter respectfully requests that Central Valley Engineering & Asphalt (CVE) and B&M Builders (B&M) bids be rejected due to previous labor compliance issues and lawsuits on projects with other agencies. Staff has reviewed the request and the specific incidents that the FFC is referencing, and based on those claims and the response letter from CVE, staff maintains our recommendation that the contract be awarded to CVE. Attached is a response letter from CVE for your review.

Staff will use the City’s standard Construction Agreement in a form acceptable to the City Attorney.

FINANCIAL IMPACT

The contract with Central Valley Engineering & Asphalt, Inc. would be authorized for \$1,988,969 with the project budgeted for a total of \$2,187,866 which will include a ten percent contingency amount of \$198,897 for potential change orders.

Funds in the amount of \$1,498,850 are budgeted and available in the Street Overlay/Pavement Management Project PW8017, utilizing SB1 Road Maintenance and Rehabilitation Fund (Fund 235) and Measure A (Fund 276). The additional funds of \$690,016 are available in the Measure A Fund and will require an appropriation to the project.

ENVIRONMENTAL REVIEW

All items of work are categorically exempt from environmental review.

ATTACHMENTS

1. Resolution No. 11057 - A Resolution Authorizing the City Manager to Execute a Construction Agreement with Central Valley Engineering and Asphalt, Inc. for the Blue Ravine Road Pavement Rehabilitation Fiscal Year 2022-23 Project PW8017 and appropriation of funds
2. Bid Advisory letter from the Foundation for Fair Contracting
3. Response letter from Central Valley Engineering & Asphalt

Submitted,

Mark Rackovan, PUBLIC WORKS DIRECTOR

Attachment 1

Resolution No. 11057

RESOLUTION NO. 11057

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH CENTRAL VALLEY ENGINEERING AND ASPHALT, INC. FOR THE BLUE RAVINE ROAD PAVEMENT REHABILITATION FISCAL YEAR 2022-23 PROJECT PW 8017 AND APPROPRIATION OF FUNDS

WHEREAS, the City of Folsom desires to rehabilitate the existing pavement and overlay the asphalt on Blue Ravine Road between Prairie City Road and East Bidwell Street; and

WHEREAS, the project was publicly advertised, and the bids were received on May 31, 2023, with Central Valley Engineering & Asphalt being the lowest responsible bidder; and

WHEREAS, funds in the amount of \$1,498,850 are budgeted and available in the Street Overlay/Pavement Management Project PW8017; and

WHEREAS, an additional appropriation in the amount of \$690,016 will be needed; and

WHEREAS, additional funds in the amount of \$690,016 are available in the Measure A Fund (Fund 276); and

WHEREAS, the contract will be in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute a Construction Agreement with Central Valley Engineering and Asphalt, Inc. for the Blue Ravine Road Pavement Rehabilitation Fiscal Year 2022-23 Project PW 8017 in the amount of \$1,988,969, with the budgeted amount to include a ten percent contingency for a total not-to-exceed amount of \$2,187,866.

BE IT FURTHER RESOLVED that the Chief Financial Officer is authorized to appropriate \$690,016 for this project from the Measure A Fund (Fund 276).

PASSED AND ADOPTED on this 27th day of June 2023, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Rosario Rodriguez, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2

Bid Advisory letter from the Foundation for Fair Contracting



VIA EMAIL – rchance@folsom.ca.us

June 12, 2023

Ryan Chance
City of Folsom
50 Natoma Street
Folsom, CA 95630

RE: BID ADVISORY
Bidders: Central Valley Engineering & Asphalt Inc.
B&M Builders, Inc.
Awarding Agency: City of Folsom
Project: Blue Ravine Rd. - Prairie City Rd./E. Bidwell St.
Pavement Rehabilitation FY 22-23
FFC Case No.: 1577SAC

Dear Mr. Medina:

The Foundation for Fair Contracting (FFC) is a nonprofit organization which has been serving the public interest since 1985. The objective of the FFC is to monitor compliance with prevailing wage laws pertaining to the construction industry, including informing and educating industry stakeholders. Unbalanced bids raise questions in regard to performance and compliance with the rules and regulations for the payment of prevailing wages, and the safety and well-being of the workforce. It further opens the question of excessive future change orders, the fairness to and rights of other bidders in the bidding process, and the intent of the bidding process in general.

In deference to all bidders and in order for the public interest to best be served, please enter this formal bid advisory against the above-noted contractors as a matter of public record. We respectfully request that Central Valley Engineering & Asphalt Inc. (Central Valley) and B&M Builders, Inc. (B&M) bids be rejected for the following reasons:

- **ONGOING VIOLATIONS OF PREVAILING WAGE LAWS RESULTING IN WAGE THEFT**
Central Valley and B&M have numerous infractions/violations which have resulted in willful circumvention of the Laws and Regulations Governing the Payment of Prevailing Wages, including, but not limited to, violations resulting in wage theft and non-compliance with apprenticeship laws. Central Valley and B&M have engaged in this pattern of unlawful activity on various public works prevailing wage projects. Civil Wage and Penalty Assessments have been issued to Central Valley and B&M by the State of California, Division of Labor Standards Enforcement (DLSE), Labor Commissioner's office. We have provided supporting documentation for your review.

Furthermore, Central Valley and B&M are currently under investigation by our offices in connection with issues provided below.

- Misclassifications resulting in underpayments.

FOUNDATION FOR FAIR CONTRACTING
3807 Pasadena Avenue, Suite 150 - Sacramento, CA 95821
(916) 487-7871 -- Fax (916) 487-0306
www.ffccalifornia.com

- Failure to comply with overtime requirements.
 - Failure to comply with apprenticeship requirements.
 - Failing to report all workers on certified payrolls.
-
- **FAILURE TO COMPLY WITH BID SPECIFICATIONS/UNFAIR COMPETITIVE ADVANTAGE**
Central Valley and B&M have submitted bids below the Engineer's Estimate and in excess of 18% lower than all other bidders on this project. This commonly indicates a failure to account for the proper prevailing wage rate – including travel and subsistence. If awarded the project, change orders would be unavoidable in order to complete the project in accordance with the specifications without compromising prevailing wage laws/standards. This gives Central Valley and B&M an unfair advantage in their bidding practices against competitors and puts the City of Folsom into a precarious legal position.

 - **FAILURE TO COMPLY WITH WORKFORCE DEVELOPMENT AND FORMAL APPRENTICESHIP PROGRAMS**
Central Valley and B&M have not made a good faith effort to participate and invest in Local Workforce Development, nor have they participated in local hiring of workers in the community through formal and recognized pre-apprenticeship programs and formal apprenticeship programs for specific apprenticeable crafts. They have failed to request, employ, train, and pay the proper prevailing wages to apprentices.

 - **UNSAFE WORK ENVIRONMENT / OSHA VIOLATIONS RESULTING IN FINES ISSUED AND UPHELD**
Central Valley and B&M have multiple safety infractions that have resulted in worker injuries leading to investigations and fines issued by OSHA. We have attached the detailed supporting documentation for your review.

 - **LITIGATION AND PRIVATE ATTORNEY GENERAL ACT (PAGA) LAWSUITS**
Central Valley has history of PAGA related lawsuits filed with the State of California, brought forth from workers who have been victims of wage theft. Further, Central Valley has a history of private litigation resulting from unsafe work ethics. Private litigation and PAGA supporting documentation is attached for your review.

Please contact our office with questions, comments, or clarifications.

Sincerely,



Jesse Jimenez
Executive Director

Case: 1577SAC

cc: City of Folsom – Mayor and Councilmembers
Rosario Rodriguez – Email: rrodriguez@folsom.ca.us
YK Chalamcherla – Email: ykc@folsom.ca.us
Sarah Aquino – Email: saquino@folsom.ca.us
Mike Kozlowski – Email: mkozlowski@folsom.ca.us
Anna Rohrbough – Email: annar@folsom.ca.us

City of Folsom – Public Works Director
Mark Rackovan – Email: mrackovan@folsom.ca.us

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<p>Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works</p> <p>TEL: (916) 263-8676 FAX: (916) 263-2906</p>	<p>Gavin Newsom, Governor</p> 
<p>DATE: February 26, 2019</p>	<p>In Reply Refer to Case No: 40-53520</p>

RECEIVED
 MAR 1 2019
 Foundation for
 Fair Contracting

CIVIL WAGE AND PENALTY ASSESSMENT

<p>Awarding Body City of Santa Cruz-Public Works Dept.</p>	<p>Work Performed in County of Santa Cruz</p>
<p>Project Name 2016 Surface Seal Program</p>	<p>Project No. 0</p>
<p>Prime Contractor Telfer Pavement Technologies, LLC.</p>	
<p>Subcontractor Central Valley Engineering & Asphalt Inc., a California corporation</p>	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Labor Code (LC) Section 1774 for failure to pay the correct prevailing wage rate pursuant to the Laborer classification based on determinations NC-23-102-1-2015-2, Cement Masons classification based on determination NC-23-203-1-2015-3 and for the Operating Engineer classification based on determination NC-23-63-1-2015-2 in Santa Cruz County. Pursuant to LC Section 1775, the penalty is assessed at \$80 per violation.

Apprenticeship Violations: LC Section 1777.5 for failure to submit Public Works Contract Award Information (DAS 140) prior to the start of the project and Request for Dispatch of an Apprentice (DAS 142) to all required committees in the region and for failure to employ required apprentices to meet the journeyman ratio for Laborers, Operating Engineers and Cement Masons classifications. Pursuant LC Section 1777.7, the penalty is assessed at \$40 per violation.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$1,368.70

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$2,080.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$3,960.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt Inc., a California corporation is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Maria Mercado at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

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Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$1,368.70

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$1,368.70</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$2,080.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$3,960.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$7,408.70

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$1,368.70</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$2,080.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$3,960.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$7,408.70

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Maria Mercado, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On February 26, 2019, I served the within: Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Santa Cruz-Public Works Dept.
809 Center Street
Santa Cruz, CA 95060

Telfer Pavement Technologies, L.L.C.
P.O. Box 709
Martinez, CA 94553

Central Valley Engineering & Asphalt Inc., a
California corporation
216 Kenroy Lane
Roseville, CA 95678

Telfer Pavement Technologies, L.L.C.
211 Foster Street
Martinez, CA 94553

Central Valley Engineering & Asphalt Inc., a
California corporation
Agent for Service: Warren Holt
216 Kenroy Lane
Roseville, CA 95678

Telfer Pavement Technologies, L.L.C.
2829 Lakeland Dr., Suite 1502
Jackson, MS 39202

Western Surety Company
Agent for Service: CT Corp. Systems
Chicago, IL 60606

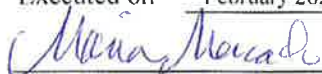
CT Corporation System
Agent for Service: National Registered
111 Eighth Ave. 13th Floor
New York, NY 10011

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
 Certified mail
 Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on February 26, 2019, at Sacramento, County of Sacramento, California



SIGNATURE

STATE CASE NO.
40-53520

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works	Edmund G. Brown Jr., Governor 
DATE: August 1, 2018	In Reply Refer to Case No: 40-53178

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 Foundation for
 Fair Contracting

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CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body Sacramento Suburban Water District	Work Performed in County of Sacramento
Project Name 2016 Water Service Agreement	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., a California corporation	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: _____

Apprenticeship Violations: Violation of L.C Section 1777.5 for failure to submit Public Works Contract Award Information form (DAS 140) and Request for Dispatch of an apprentice form (DAS 142) to all required Apprenticeship Committee(s) for the classifications of Laborers in Sacramento County and for failure to employ apprentices in compliance with required apprentice to journeyman ratio in the classification of Laborers in Sacramento County. Pursuant L.C Section 1777.7, the penalty is assessed at \$40 per violation.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$0.00

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$1,765.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$9,080.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

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Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

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Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Maria Mercado at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Ave #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

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2031 Howe Avenue, Suite #100
Sacramento, CA 95825

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Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$0.00

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$1,765.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$9,080.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$10,845.00

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$1,765.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$9,080.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$10,845.00

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Maria Mercado, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On August 1, 2018, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

Sacramento Suburban Water District
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821

Central Valley Engineering & Asphalt, Inc.,
a California corporation
AGENT FOR SERVICE
ATTN: Warren Holt
216 Kenroy Lane
Roseville, CA 95678

Central Valley Engineering &
Asphalt, Inc., a California corporation
216 Kenroy Lane
Roseville, CA 95678

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento, by:


- Ordinary first class mail
- Certified mail
- Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on August 1, 2018, at Sacramento, County of Sacramento, California

Maria Mercado
SIGNATURE

STATE CASE NO.
40-53178

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Ave #100 Sacramento, CA 95825 TEL: 9916) 263-6675 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: January 25, 2018	In Reply Refer to Case No: 40-53218

RECEIVED

AMENDED CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Elk Grove	Work Performed in County of Sacramento	JAN 29 2018
Project Name 2015 Pavement Overlay Project	Project No 0	Foundation for Fair Contracting
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation		
Subcontractor Central Valley Engineering & Asphalt, Inc., a California corporation		

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violation of Labor Code (LC) Section 1774 for failure to pay the prevailing wage pursuant to determination NC-23-63-1-2015-1 for the classifications of Operating Engineer in Sacramento County. Pursuant to Labor Code Section 1775, the penalty is assessed at \$10 per violation.

Apprenticeship Violations: Violation of LC Section 1777.5 for failure to submit Public Works Contract Award Information (DAS 140) to the required Apprenticeship Committee(s) for the classifications of Laborers, Operating Engineers and Cement Masons in Sacramento County prior to the beginning of the project and for failure to employ required apprentice to journeyman ratio for Laborers, Operating Engineers and Cement Masons classifications. Pursuant LC Section 1777.7, the penalty is assessed at \$40 per violation.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$23.37

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$100.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$2,280.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., a California corporation is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Maria Mercado at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Ave #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$23.37

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$23.37</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$100.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$2,280.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$2,403.37

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$23.37</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$450.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$2,280.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$2,753.37

Distribution:

- Awarding Body
- Surety(s) on Bond
- Prime Contractor
- Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Maria Mercado, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 25, 2018, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

The Guarantee Company of North America
USA
ATTN: Vivien Imperial
818 W. 7th Street, Suite 930
Los Angeles, CA 90017

Central Valley Engineering &
Asphalt, Inc., a California corporation
216 Kenroy Lane
Roseville, CA 95678

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
 Certified mail
 Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on January 25, 2018, at Sacramento; County of Sacramento, California

Maria Mercado
SIGNATURE

STATE CASE NO.
40-53218

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-6675	Edmund G. Brown Jr., Governor 
DATE: March 20, 2017	In Reply Refer to Case No: 40-53560

RECEIVED
 MAR 21 2017
 Foundation for
 Fair Contracting
 FAX: (916) 263-2906

587BA

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Brentwood	Work Performed in County of Contra Costa
Project Name 2015 PMP Balfour Road Overlay	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt Inc., a California corporation	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Central Valley Engineering & Asphalt Inc. violated Labor Code 1774 pursuant to the general prevailing wage determinations: NC-23-102-1-2015-1, NC-23-631-2015-1, NC 23-203-1-2015-1 for the classifications of Laborer, Operator and Cement Mason. Affected contractor did not pay for compensable travel time.

Apprenticeship Violations: Contractor did not meet the required Apprenticeship ratio for the classification of Laborer and Cement Mason.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$7,291.32

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$4,650.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$980.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Maria Mercado at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$7,291.32

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$7,291.32</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$4,650.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$980.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$12,921.32

2. Prime Contractor Withholding Obligations:


In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$7,291.32</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$4,650.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$980.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$12,921.32

Distribution:

- Awarding Body
- Surety(s) on Bond
- Prime Contractor
- Subcontractor

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: January 27, 2017 1192 SAC	In Reply Refer to Case No: 40-53363 RECEIVED

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body Sacramento Metropolitan Fire District	Work Performed in County of Sacramento
Project Name ST50-ST51-ST53-ST54-ST61-ST63-Asphalt Repair	Project No 33246
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct prevailing wages pursuant to the Director's General Prevailing Wage Determination 2015-2 for Laborer and Operating Engineer. Failed to pay fringe benefits.

Apprenticeship Violations: _____

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$2,414.66

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$2,475.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., A California Corporat is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Jerry McClain
 Jerry McClain
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$2,414.66

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	\$2,414.66
Penalties Due Under Labor Code sections 1775 and 1813:	\$2,475.00
Penalties Due Under Labor Code section 1777.7:	\$0.00
Penalties Due Under Labor Code sections 1776:	\$0.00
Total Withholding Amount:	\$4,889.66

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	\$2,414.66
Penalties Due Under Labor Code sections 1775 and 1813:	\$2,475.00
Penalties Due Under Labor Code section 1777.7:	\$0.00
Penalties Due Under Labor Code sections 1776:	\$0.00
Total Withholding Amount:	\$4,889.66

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 27, 2017, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

Sacramento Metropolitan Fire District
10545 Armstrong Avenue, Suite 200
Mather, CA 95655
Matthew Davies

Central Valley Engineering & Asphalt, Inc.,
A California Corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

Foundation for Fair Contracting
3807 Pasadena Avenue, Suite 150
Sacramento, CA 95821
Cayetano Reynoso

The Guarantee Company of North America
USA
818 W 7th Street, Suite 930
Los Angeles, CA 90017
Vivian Imperial

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:


- Ordinary first class mail
 Certified mail
 Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on January 27, 2017, at Sacramento, County of Sacramento, California

Jerry McClain
SIGNATURE

STATE CASE NO.
40-53363

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: January 27, 2017	In Reply Refer to Case No: 40-53365

1188RD

RECEIVED

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Colfax	Work Performed in County of Placer	IAN 50 2017
Project Name UPRR Pedestrian Crossing & Bicycle Path Improvements	Project No. 12-01.02	Foundation for Fair Contracting
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation		
Subcontractor		

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct prevailing wages pursuant to the Director's General Prevailing Wage Determination 2015-1 for the classifications of Cement Mason, Laborer and Operating Engineer. Failed to pay fringe benefits.

Apprenticeship Violations: _____

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$20,930.95

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$12,205.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., A California Corporat is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Jerry McClair
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$20,930.95

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$20,930.95</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$12,205.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$33,135.95

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$20,930.95</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$12,205.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$33,135.95

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 27, 2017, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Colfax
P.O. Box 702
Colfax, CA 95713
Nelia Sperka

Central Valley Engineering & Asphalt, Inc.,
A California Corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

Foundation for Fair Contracting
3807 Pasadena Avenue, Suite 150
Sacramento, CA 95821
Mario Rodriguez

The Guarantee Company of North America
USA
818 W 7th Street, Suite 930
Los Angeles, CA 90017
Vivian Imperial

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
 Certified mail
 Registered mail


I certify under penalty of perjury that the foregoing is true and correct

Executed on January 27, 2017, at Sacramento, County of Sacramento, California



SIGNATURE

STATE CASE NO.
40-53365

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: January 27, 2017 11915AC	In Reply Refer to Case No: 40-53362

CIVIL WAGE AND PENALTY ASSESSMENT

RECEIVED

Awarding Body <u>Sacramento Metropolitan Fire District</u>	Work Performed in County of <u>Sacramento</u>
Project Name <u>ST55,ST58,ST66-Asphalt Repair</u>	Project No <u>33277</u>
Prime Contractor <u>Central Valley Engineering & Asphalt, Inc., A California Corporation</u>	
Subcontractor 	

JAN 30 2017
Foundation for
Fair Contracting

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct prevailing wages pursuant to the Director's General Prevailing Wage Determination 2015-2 for the classifications of Cement Mason, Laborer and Operating Engineer. Failed to pay fringe benefits.

Apprenticeship Violations: _____

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$2,599.06

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$2,265.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., A California Corporation is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By 

 Jerry McClain
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$2,599.06

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$2,599.06</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$2,265.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$4,864.06

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$2,599.06</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$2,265.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$4,864.06

Distribution:

- Awarding Body
- Surety(s) on Bond
- Prime Contractor
- Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 27, 2017, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

Sacramento Metropolitan Fire District
10545 Armstrong Avenue, Suite 200
Mather, CA 95655
Matthew Davies

The Guarantee Company of North America
USA
818 W 7th Street, Suite 930
Los Angeles, CA 90017
Vivian Imperial

Asphalt, Inc., A California
Corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

Foundation for Fair Contracting
3807 Pasadena Avenue, Suite 150
Sacramento, CA 95821
Cayetano Reynoso

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:


- Ordinary first class mail
- Certified mail
- Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on January 27, 2017, at Sacramento, County of Sacramento, California


SIGNATURE

STATE CASE NO.
40-53362

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor  RECEIVED JAN 30 2017 Foundation for Fair Contracting
DATE: January 27, 2017	In Reply Refer to Case No: 40-53364 RECEIVED

1194 SAC

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Citrus Heights	Work Performed in County of Sacramento
Project Name 2016 Residential St. Resurfacing	Project No. 33277
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct prevailing wages pursuant to the Director's General Prevailing Wage Determination 2016-1 for the classification of Cement Mason, Laborer and Operating Engineer. Failed to pay fringe benefits.

Apprenticeship Violations: _____

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$61,892.16

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$37,815.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., A California Corporat is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By Jerry McClain
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$61,892.16

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$61,892.16</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$37,815.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$99,707.16

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$61,892.16</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$37,815.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$99,707.16

Distribution:

- Awarding Body
- Surety(s) on Bond
- Prime Contractor
- Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 27, 2017, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Citrus Heights
6360 Fountain Square Drive
Citrus Heights, CA 95621
Regina Cave

Central Valley Engineering & Asphalt, Inc.,
A California Corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

Foundation for Fair Contracting
3807 Pasadena Avenue, Suite 150
Sacramento, CA 95821
Cayetano Reynoso

The Guarntee Company of North America
USA
818 W 7th Street, Suite 930
Los Angeles, CA 90017
Vivian Imperial
Bond #12135114

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
- Certified mail
- Registered mail


I certify under penalty of perjury that the foregoing is true and correct

Executed on January 27, 2017, at Sacramento, County of Sacramento, California



SIGNATURE

STATE CASE NO.
40-53364

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: January 27, 2017	In Reply Refer to Case No: 40-53366

1195 SAC

RECEIVED

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Citrus Heights	Work Performed in County of Sacramento
Project Name Mariposa Avenue Slope Repair Project	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor:	

IAN 30 2017
Foundation:
Fair Contracting

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct prevailing wages pursuant to the Director's General Prevailing Wage Determination 2016-1 for the classifications of Cement Mason, Laborer and Operating Engineer. Failed to pay fringe benefits.

Apprenticeship Violations: _____

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$6,671.21

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$5,055.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Central Valley Engineering & Asphalt, Inc., A California Corporat is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By 
 Jerry McClain
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

State of California - Labor Commissioner
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$6,671.21

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$6,671.21</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$5,055.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$11,726.21

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$6,671.21</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$5,055.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$11,726.21

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On January 27, 2017, I served the within: (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Citrus Heights
7927 Auburn Blvd.
Citrus Heights, CA 95610
Regina Cave

Central Valley Engineering & Asphalt, Inc.,
a California corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

Foundation for Fair Contracting
3807 Pasadena Avenue, Suite 150
Sacramento, CA 95821
Cayetano Reynoso

The Guarantee Company of North America
USA
818 W 7th Street, Suite 930
Los Angeles, CA 90017
Vivian Imperial
Bond #12135089

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
- Certified mail
- Registered mail


I certify under penalty of perjury that the foregoing is true and correct

Executed on January 27, 2017, at Sacramento, County of Sacramento, California

Jerry McClain
SIGNATURE

STATE CASE NO.
40-53366

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Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works TEL: (916) 263-2901	Gavin Newsom, Governor 
DATE: November 4, 2020	In Reply Refer to Case No: 40-70716-137

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body Fairfield-Suisun Unified School District	Work Performed in County of SOLANO	
Project Name TOLENAS MODERNIZATION PHASE II	Project No DIR: 324904	DIR Project ID No
Prime Contractor REM CONSTRUCTION, INCORPORATED, A California Corporation	CSLB License No 268689	Contractor Registration (PWCR) No. 1000014954
Subcontractor(s) B&M Builders Inc., A California Corporation	CSLB License No 861848	Contractor Registration (PWCR) No. 1000003277
Second or Third-tier Subcontractor, if applicable	CSLB License No	Contractor Registration (PWCR) No.

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, compliance with the apprenticeship standards found in Labor Code section 1777.5, or compliance with the registration requirements set forth in Labor Code section 1725.5, the Labor Commissioner has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor(s) identified above. In accordance with Labor Code section 1741, the Labor Commissioner hereby issues this Civil Wage and Penalty Assessment.

TOTAL ASSESSMENT:	<u>\$12,578.24</u>
--------------------------	---------------------------

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violated Labor Code Section 1774 for failure to pay the correct wage pursuant to the Director's General Prevailing Wage Determination NC-23-203-1-2019-1 for the craft of Cement Mason and NC-23-102-1-2019-2 for the craft of Laborer Area 2, Group 2.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813, if applicable.

The Labor Commissioner has determined the total amount of **wages** due is: \$2,563.24

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1775** is: \$4,390.00

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1813** is: \$1,625.00

(continued on next page)

STATE LABOR COMMISSIONER

By 
 Jerry McClain
 Deputy Labor Commissioner

Apprenticeship Violations: Violated Labor Code Section 1777.1 for failure to employ apprentices at the minimum ratio for the craft of Laborer, Area 2, Group 2. Violated Labor Code Section 1777.5 for failure to pay training funds in full.

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1777.7 is: \$4,000.00

Labor Code Section 1776 Violations: _____

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1776(h) against B&M Builders Inc., A California Corporation is: \$0.00

Public Works Contractor Registration Violations: _____

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1771.1 against	
<u>General contractor</u>	is: <u>\$0.00</u>
<u>Subcontractor</u>	is: <u>\$0.00</u>
<u>Second-tier subcontractor</u>	is: <u>\$0.00</u>
<u>Third-tier subcontractor, if applicable</u>	is: <u>\$0.00</u>

Please refer to page 6 for specific withholding obligations pertaining to these amounts.

(continued on next page)

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

Labor Commissioner - State of California
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties, including interest on all due and unpaid wages pursuant to Labor Code section 1741(b), must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825-0196

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Jerry McClain at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #100
Sacramento, CA 95825

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid.

Notwithstanding the above, in accordance with Labor Code section 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

The full amount of the assessment that should be deposited is: **\$12,578.24**

Deposits must be made by check or money order payable to the Department of Industrial Relations with a cover letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$2,325.81</u>
Training Funds Due:	<u>\$237.42</u>
Penalties Due Under Labor Code section 1775:	<u>\$4,390.00</u>
Penalties Due Under Labor Code section 1813:	<u>\$1,625.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$4,000.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>\$0.00</u>
Penalties Due Under Labor Code section 1771.1:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$12,578.24</u>

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$2,325.81</u>
Training Funds Due:	<u>\$237.42</u>
Penalties Due Under Labor Code section 1775:	<u>\$4,390.00</u>
Penalties Due Under Labor Code section 1813:	<u>\$1,625.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$4,000.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>\$0.00</u>
Penalties Due Under Labor Code section 1771.1:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$12,578.24</u>

Distribution:
Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor(s)

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Jerry McClain, do hereby certify that I am a resident of or employed in the County of Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On November 4, 2020, I ser (1) Civil Wage and l(1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

Fairfield-Suisun Unified School District 2490 Hilborn Road Fairfield, CA 94534 Amanda Rish	B&M Builders Inc., A California Corporation 11330 SUNRISE PARK DR STE C RANCHO CORDOVA, CA 95742 Patrick T Mullen	REM CONSTRUCTION, INCORPORATED, A California Corporation 2599 Widgeon Lane Durham, CA 95938 Richard Eugene Schell
The Ohio Casualty Insurance Company 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833 Kaitlyn Mannix BOND # 070211740		

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid, and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
- Certified mail
- Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed at, at November 4, 2020, at Sacramento, County of Sacramento, California

Jerry McClain
SIGNATURE

STATE CASE NO.
40-70716-137
PW 34 (Revised - 4/2002)

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Inspection Detail

Inspection: 317245355 - Central Valley Engineering & Asphalt, Inc

Inspection Information - Office: Ca Sacramento

Inspection Nr: 317245355

Report ID: 0950621

Open Date: 07/30/2013

Site Address:

Central Valley Engineering & Asphalt, Inc
4367 Gresham Dr
El Dorado Hills, CA 95762

Union Status: NonUnion

SIC:1611

NAICS: 237310/ Highway, Street, and Bridge
Construction

Mailing Address:

216 Kenroy Ln, Roseville, CA 95678

Inspection Type: Accident

Safety/Health: Safety

Scope: Partial

Close Conference: 01/06/2014

Advanced Notice: N

Emphasis:

Ownership: Private

Close Case:03/18/2014

Related Activity

Type	Activity Nr	Safety	Health
Accident	102685559		

Violation Summary

Violations/Penalties	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	2			3		5
Current Violations	2			3		5
Initial Penalty	\$7,420	\$0	\$0	\$1,510	\$0	\$8,930

Current Penalty	\$7,420	\$0	\$0	\$1,510	\$0	\$8,930
FTA Penalty	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items

#	Citation ID	Citation Type	Standard	Issuance Date	Abatement Due Date	Current Penalty	Initial Penalty	FTA Penalty	Contest	Latest Event	Note
1.	01001	Other	1509 B	01/08/2014	02/10/2014	\$550	\$550	\$0		-	
2.	01002	Other	1541 B03	01/08/2014	01/13/2014	\$825	\$825	\$0		-	
3.	01003	Other	3395 E	01/08/2014	02/10/2014	\$135	\$135	\$0		-	
4.	02001	Serious	1541 B01 A	01/08/2014	01/13/2014	\$3,710	\$3,710	\$0		-	
5.	03001	Serious	1541 B01 D	01/08/2014	02/10/2014	\$3,710	\$3,710	\$0		-	

UNITED STATES DEPARTMENT OF LABOR

Occupational Safety and Health
Administration
200 Constitution Ave NW
Washington, DC 20210
☎ 800-321-6742 (OSHA)
TTY
www.OSHA.gov

FEDERAL GOVERNMENT

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Severe Storm and Flood Recovery
Assistance
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No Fear Act Data
U.S. Office of Special Counsel

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UNITED STATES DEPARTMENT OF LABOR

Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210
☎ 800-321-6742 (OSHA)
TTY
www.OSHA.gov

FEDERAL GOVERNMENT

White House
Severe Storm and Flood Recovery Assistance
Disaster Recovery Assistance
DisasterAssistance.gov
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**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

CENTRAL VALLEY ENGINEERING
& ASPHALT, INC.
216 Kenroy Lane
Roseville, CA 95678

Employer

Docket 08-R2D1-5001

**DECISION AFTER
RECONSIDERATION
and REMAND**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code and having taken this matter under reconsideration, renders the following decision after reconsideration.

JURISDICTION

Employer was cited for failing to timely report a serious workplace injury (Cal. Code Regs., tit. 8, §342(a).)¹ Employer was aware on Tuesday, June 17, 2008, at approximately 10:00 a.m. that a serious injury was sustained by its employee. Employer reported the injury to the Division Friday, June 20, 2008, at approximately 4:00 p.m. The violation is established. Employer has 100 employees. No information is contained in the record regarding Employer's compliance or safety history, or whether Employer had an IIPP.

The Division proposed a penalty of \$5000, without modification for size, history or good faith, or on any other basis. (See § 336(d).) In lieu of a hearing, the parties submitted stipulated facts on which the Administrative Law Judge (ALJ) relied in determining the penalty for the section 342(a) violation in this case should be \$1000.² We consider the appropriate penalty for a section 342(a) violation.

¹ All references are to title 8, California Code of Regulations unless otherwise indicated.

² Three additional violations alleged by the Division were before the ALJ in this appeal and were resolved in the ALJ's Order. The Board did not order reconsideration of any of those items, nor did either party preserve any other issue for our review by petition for reconsideration. Those items are not before us now, and are final orders of the Board.

DECISION

Labor Code section 6602 assigns to the Appeals Board the task of approving, modifying, or vacating penalties, *inter alia*, assessed by the Division, and the section also empowers the Appeals Board to direct "other appropriate relief." On this authority, we have previously considered a variety of situations which may merit reduction or increase from the penalty the Division has assessed for violations of section 342(a). (See, *Trader Dan's dba Rooms N Covers*, Cal/OSHA App. 08-4978, Decision After Reconsideration (Oct. 9, 2009) [penalty reduction]; *Bill Callaway and Greg Lay dba Williams Redi-Mix.*, Cal/OSHA App. 03-2400, Decision After Reconsideration (Mar. 27, 2007) [same]; *Central Valley Contracting*, Cal/OSHA App. 05-2351, Decision After Reconsideration (Jun. 1, 2009) [penalty increase].)

First, we recognize that the Division's proposed \$5000 penalty, without modification for other penalty considerations, represents a significant change from its pre-2002 practice regarding the penalty assessed in section 342(a) cases. Prior to the 2002 amendment of Labor Code section 6409.1(b), the penalty for section 342(a) violations was assessed as were all other penalties. (See *Tomlinson Construction, Inc.*, Cal/OSHA App. 95-2268, Decision After Reconsideration (Feb. 18, 1998) [upholding \$175 penalty reached by modifying \$500 gravity-based penalty in 336(a)(1) for size, history and good faith as directed in 336(d)]; *Huffman Logging Co., Inc.*, Cal/OSHA App. 93-382, Decision After Reconsideration (Nov. 21, 1996) [proposed penalty of \$100, reached by giving maximum adjustments for size, good faith and history; Board amended citation to a Notice in Lieu of citation, Labor Code section 6317, on other grounds].) Failures to report and late reports were penalized equivalently.

In view of the history briefly recapitulated above, we limit our analysis here to the effect of the 2002 amendment of Labor Code section 6409.1(b) on the penalty for a violation of section 342(a) due to a late report. Labor Code section 6409.1(b) is ambiguous because in its context, both textual and historical, it could be interpreted in several different ways. The Board has interpreted it as a starting point for penalty assessment under Labor Code section 6602; the Division interpreted it as requiring a \$5000 penalty in every case.³ The principles of statutory construction reveal it is not a mandatory minimum penalty and may be adjusted, and the prohibition against repeal by implication clarifies it is a penalty assessment that remains subject to modifications for size, good faith and history under Labor Code section 6319(c).

³ The Division did this in an amendment to Director's regulation section 336(a), which added new subdivision (6) to that provision. The "Director" is the Director of Industrial Relations, to whom the Division reports. (See Labor Code § 6302.) The Division's regulations, including those pertaining to calculating penalties for alleged violations, are among those promulgated by the Director. Moreover, the rulemaking package indicates the Division intended only to change the starting point for penalty assessment from \$500 to \$5000 for both late and non-reports. In practice, the Division declines to adjust the penalty as it had prior to the 2002 amendment.

It is clear, at least, that the Legislature intended to raise the initial penalty for violations of section 342(a) to \$5000 from \$500, but that it was not required to be \$5,000 in every case. We conclude from this that the Legislature intended that if an initial penalty were to be assessed, it must be \$5,000; if not, then no penalty, \$0, was to be assessed.

The Board believes a strictly all or nothing penalty is uncalled for by the statute and an unnecessarily extreme means to use to determine a penalty. And, as it is inconsistent with the rest of the penalty setting scheme in the OSH Act, an all or nothing scheme was not the legislative intent for all violations of the reporting requirement, even minor ones. For example, construing section 6409.1(b) to mean that only one of two penalties is appropriate in all cases ignores other provisions of the Act, such as the obligation of the Division to account for the size, good faith, history of the employer, or the gravity of the violation when calculating a penalty. (See Labor Code section 6319(d).) In addition, section 6409.1(b) is not written in the statutory form used to establish a mandatory minimum penalty. (See Labor Code section 6712.)

A mandatory minimum penalty is created by using statutory language that is different than the language of the amendment to 6409.1(b) we evaluate here. For example, violations of field sanitation safety orders enacted pursuant to Labor Code section 6712(d) carry the minimum penalty of \$750 for all employers, regardless of size, good faith, history of the employer, or gravity or severity of the violation. The consideration for factors of size, gravity, good faith and history are still applied to such violations when proposing a penalty, but no adjustment that results in a penalty below the statutory minimum is allowed. To achieve this minimum penalty effect, the Legislature used the following language: "Notwithstanding Sections 6317 and 6434, any employer who fails to provide the facilities required by the field sanitation standard shall be assessed a civil penalty under the appropriate provisions of Sections 6427 to 6430, inclusive, except that in no case shall the penalty be less than seven hundred fifty dollars (\$750) for each violation." Section 6409.1(b) states, "An employer who violates this subdivision may be assessed a civil penalty of not less than \$5000."

By selecting different language in section 6409.1(b) the Legislature communicated its intent was something other than a minimum penalty in all cases for a reporting violation. "It is a settled rule of statutory construction that where a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different legislative intent existed with reference to the different statutes." (*Los Angeles County Metropolitan Transp. Authority v. Alameda Produce Market, LLC* (2011) 52 Cal.4th 1100, 1108 quoting *In re Jennings* (2004) 34 Cal.4th 254, 273.)

Faced with the ambiguity of section 6409.1(b), the Appeals Board reasoned in *Callaway* and *Trader Dan's* that the facts surrounding the violation could be looked to in an effort to impose equitable penalties that would, over time, result in like-situated employers paying like penalties. And, given the broad authority granted the Board by Labor Code section 6602, and silence in Labor Code section 6409.1(b) regarding any intended curtailment of that authority, the Board exercised its authority to reach a fair penalty in each case. The Board implemented the Legislature's intent to generally raise the penalty for failing to timely report contained in section 6409.1(b) by beginning each penalty assessment at the \$5000 level established there.

However, the penalty-setting factors considered in those decisions have not resulted in an increase in compliance by employers, or a decrease in the number of 342(a) violations⁴. The subjectivity inherent in the penalty determinations based on the many factors considered by the Board's several ALJs in the exercise of their discretion has resulted in some similarly situated employers paying dissimilar penalties. Thus, though the Board's stated goal in its section 342(a) penalty decisions was to encourage employers to report late rather than not at all, that methodology appears to have had no effect on reporting. (We expected to see an increase in late reporting violations, as more employers would report serious injuries, albeit late. Instead, there has been no such discernable statistical impact on section 342(a) violations either before or after the *Callaway* decision, or before or after the *Trader Dan's* decision.)

The OSH Act intended similarly situated employers to receive similar penalties. One way the Act does so is by requiring the Division to take into account the size, good faith, and history of an employer in determining the proposed penalty. (Labor Code § 6319; CCR, title 8, section 336(d).) However, the Division, in Director's Regulation section 336(a)(6), has interpreted Labor Code section 6409.1(b) to mean the Division may only assess a \$5000 penalty, in spite of the failure of section 6409.1(b) to instruct the Division not to, in this unique circumstance, give due consideration for the size, good faith, and history of employers when determining a proposed penalty. The Division's interpretation in this regard also requires assuming implied repeal of portions of Labor Code section 6319. Repeal by implication is consistently disfavored by California courts. (*Schatz v. Allen Matkins Leck Gamble & Mallory LLP* (2009) 45 Cal.4th 557, 571 [courts give full effect to all interrelated portions of a statutory scheme, and recognize repeal by implication only when two provisions are irreconcilable].)

The Division's regulatory interpretation also ignores the other option apparent in the text of section 6409.1(b), to wit, a zero penalty. "[A]dministrative construction of a statute, while entitled to weight, cannot prevail when a contrary legislative purpose is apparent. (*Sanchez v.*

⁴ Citations for 342(a) violations since 2008: 526 (2008), 454 (2009), 504 (2010), 399 (2011). *Trader Dan's*, *supra*, was issued in October 2009. This data does not support an inference of a trend temporally related to the decision.

Unemployment Ins. Appeals Bd., *supra*, 20 Cal.3d 55, 67; *Wilkinson v. Workers' Comp. Appeals Bd.* (1977) 19 Cal.3d 491, 501 [138 Cal.Rptr. 696, 564 P.2d 848]; *Rivera v. City of Fresno*, *supra*, 6 Cal.3d 132, 140.)” (*Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101, 117.) The Director’s administrative construction of the enactment cannot prevail because a different intent is apparent. An administrative agency may not adopt a regulation unless it is consistent with the statutes being implemented or interpreted. (Gov. Code § 11342.2; *Woods v. Superior Court* (1981) 28 Cal.3d 668, 679; *Nortel Networks, Inc. v. Board of Equalization* (2011) 191 Cal.App.4th 1259, 1276-1277.)

Regulations that fulfill the agency’s delegated authority are considered quasi-legislative and are upheld unless the “classification is ‘arbitrary, capricious or [without] reasonable or rational basis.’” (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal. 4th 1, 11, quoting *Culligan Water Conditioning v. State Bd. of Equalization* (1976) 17 Cal.3d 86, 93.) The pre-2002 penalty scheme appears to have been a reasonable implementation of the OSH Act. (*Moore v. California State Bd. of Accountancy* (1992) 2 Cal. 4th 999, at 1013-1014.) Courts presume the Legislature, when enacting a statute, was aware of existing and related laws and intended to maintain a consistent body of rules. (*Stone Street Capital, LLC v. California State Lottery Com’n* (2008) 165 Cal.App. 4th 109, 118.) Other portions of the Act determine adjustable penalties without specifically referencing the penalty adjustment statute, and section 6409.1(b) can likewise be read as proposing an adjustable penalty. (*Yoffie v. Marin Hospital Dist.* (1987) 193 Cal.App.3d 743, 747-748 [principles of statutory construction include reading parts of a statute in context with the remainder of the Act].)

Last, the word “assess” in the amendment is ambiguous. The amendment describes a penalty that may be “assessed.” This term is used in the regulations to refer to the gravity-based penalty prior to adjustment. (§ 336(a)) The Division so referred to the word “assess” as meaning the gravity-based penalty, not the final penalty amount, in the rulemaking justification accompanying the adoption of section 336(a)(6). “Consistent with [existing] exceptions (to the gravity base of a regulatory penalty being \$500), the Division proposes to add a further exception to assess a minimum \$5000 penalty for a violation of Section 342. This proposed amendment to section 336 has no regulatory effect, because it merely makes Section 336 consistent with Labor Code section 6409.1 as recently amended. In the words of section 100 of Title 1 of the California Code of Regulations, Section 336 is currently inconsistent with, and superseded by, Labor Code section 6409.1 because it [current rule 336] creates a minimum \$500 penalty for regulatory violations. In addition, the Division has no authority to adopt a regulation setting the minimum penalty for a violation of Section 342 lower than \$5,000.” The then-existing rule did provide that the gravity base of regulatory penalty was \$500, and that initial penalty amount was further adjusted for the size, good faith, and history of the employer. These modifications are not mentioned in the justification for

the rulemaking, and removing such modifications without mentioning that effect would not be appropriate under the APA. (Govt. Code § 11346 et seq.)

The Board assumes the Legislature selected the word “assess” with regard to its use in the penalty setting regulations. (*California Assn of Medical Products Suppliers v. Maxwell-Jolly* (2011) 199 Cal. App. 4th 286, 315.) It appears that the Legislature meant only to replace the \$500 initial assessed penalty amount representing the gravity of the violation in section 336(a)(1) with a new minimum \$5000 initial assessed penalty. (*Moore v. California State Bd. of Accountancy* (1992) 2 Cal.4th 999, 1017, 9 Cal.Rptr.2d 358, 831 P.2d 798 [the Legislature is presumed to be aware of an administrative construction of a statute when the construction has been made known to it].) The choice of the word “assess” makes section 6409.1(b) ambiguous because it could mean either a pre-adjusted assessment, as in section 336(a), or a final penalty amount, as the penalty maximums in Labor Code sections 6428-6430 use the word “assess” to describe a penalty that could not be adjusted upward (though a downward adjustment is allowed). For all of these reasons, the provision is ambiguous.

The Appeals Board need not determine the validity or invalidity of the Director’s implementation of Labor Code section 6409.1(b) in section 336(a)(6) of its regulations because the Board has an independent duty to impose the appropriate penalty. (Labor Code § 6602; see *Nortel Networks Inc. v. State Bd. of Equalization* (2011) 191 Cal.App.4th 1259, 1277 [no deference accorded regulatory interpretation that is in conflict with the intent of the statute].) We implement that duty in a manner consistent with the discernable intent of the statute.

The legislative history of the 2002 amendment to Labor Code section 6409.1(b) also indicates that other penalty outcomes were permissible when a report was late. We are mindful of the comments in the Legislative Counsel’s Digest indicating the purpose and effect of the legislation was that a penalty of \$5000 is to be imposed when an employer fails to report. However, no mention is made of the Legislative intent when an Employer reports untimely, but indeed reports. In *Trader Dan’s* we recognized a great distinction between a late report and a failure to report. To fulfill the Legislative intent contained in the language of the enactment, and the legislative history, we conclude that a failure to report violation must carry a penalty of \$5000. The Legislature did not state in any portion of the Legislative history that an employer who reports three days late must be given a \$5000 penalty. While we assume the new enactment intended to change existing law (*Union League Club v. Johnson* (1941) 18 Cal. 2d 275, 278), we do not derive an intent to impose a \$5000 penalty for a late report from silence in the legislative history.


“The final step (in statutory construction, after reviewing the language of the enactment and the legislative history) - and one which we believe should

only be taken when the first two steps have failed to reveal clear meaning – is to apply reason, practicality, and common sense to the language at hand. If possible, the words should be interpreted to make them workable and reasonable [citations], in accord with common sense and justice, and to avoid an absurd result [citations].” (*Jensen v. BMW of North America, Inc.* (1995) 35 Cal. App. 4th 112, 123, quoting *Halbert’s Lumber Inc. v. Lucky Stores Inc.* (1992) 6 Cal.App.4th 1233, 1239-1240.) Since the language, in context, is ambiguous, and the legislative history is silent, we construe section 6409.1(b) to allow for modification to the proposed \$5000 gravity based penalty, for factors of size, history and good faith, in the case of a late report. This is consistent with the Division’s view of the effect of the enactment when it processed a regulatory change to be consistent with the Act. The result is that employers who report, though somewhat untimely, will receive penalty modifications as were applied prior to the amendment of Labor Code section 6409.1(b). This category of violator was not included in the legislative history as deserving of a \$5000 penalty regardless of other widely applied penalty setting factors. Treating this employer who reported a few days late, the same as those who fail to report at all leads to an unjust and absurd results. (*National Steel and Shipbuilding Company (NAASCO)*, Cal/OSHA App. 10-3794, Denial of Petition for Reconsideration (Sep. 20, 2012), citing *Barnes v. Chamberlain* (1983) 147 Cal. App. 3d 792).


Here, a large employer (over 100 employees) was three days late. If the employer had an effective IIPP and no previous violations, it would receive reductions therefore. (Labor Code section 6319; 336(d).) The matter is remanded to the Administrative Law Judge to determine these penalty-related facts, and to impose the proper penalty after giving due consideration for such factors.


ART R. CARTER, Chairman


ED LOWRY, Member


JUDITH S. FREYMAN, Member

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

FILED ON: DEC 04 2012




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Inspection Detail

Quick Link Reference

1426584.015 | 1407673.015

Case Status: CLOSED

Inspection: 1426584.015 - B&M Builders Inc.

Inspection Information - Office: Ca Sacramento

Nr: 1426584.015 Report ID: 0950621 Open Date: 08/28/2019

B&M Builders Inc.
3955 Missouri Flat Road
Placerville, CA 95667 Union Status: NonUnion

SIC:
NAICS: 541330/Engineering Services
Mailing: 11330 Sunrise Park Dr. Suite C, Rancho Cordova, CA 95742

Inspection Type: Accident
Scope: Partial Advanced Notice: N
Ownership: Private
Safety/Health: Health Close Conference: 01/22/2020
Close Case: 09/30/2020

Related Activity: Type ID Safety Health
Accident 1492512

Case Status: CLOSED

Violation Summary

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1					1
Current Violations	1					1
Initial Penalty	\$4,725	\$0	\$0	\$0	\$0	\$4,725
Current Penalty	\$470	\$0	\$0	\$0	\$0	\$470
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
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Case Status: CLOSED

Inspection: 1407673.015 - B&M Builders Inc.

Inspection Information - Office: Ca Sacramento				
Nr: 1407673.015	Report ID: 0950621	Open Date: 06/13/2019		
B&M Builders Inc.				
2960 Howe Ave.				
Sacramento, CA 95821		Union Status: NonUnion		
SIC:				
NAICS: 541330/Engineering Services				
Mailing: 11330 Sunrise Park Dr. Suite C, Rancho Cordova, CA 95742				
Inspection Type:	Accident			
Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Health	Close Conference:	11/28/2019	
		Close Case:	01/27/2021	
Related Activity:	Type	ID	Safety	Health
	Accident	1464667		

Case Status: CLOSED

Violation Summary

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	3			2		5
Current Violations	3			2		5
Initial Penalty	\$14,850	\$0	\$0	\$820	\$0	\$15,670
Current Penalty	\$12,350	\$0	\$0	\$820	\$0	\$13,170
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Other	3395(E)(5)	12/10/2019	12/30/2019	\$410	\$410	\$0	01/27/2020	O - Administrative Law Judge Order
2.	01002	Other	3395(I)	12/10/2019	01/07/2020	\$410	\$410	\$0	01/27/2020	O - Administrative Law Judge Order
3.	02001	Serious	1712(C)(1)	12/10/2019		\$4,950	\$4,950	\$0	01/27/2020	O - Administrative Law Judge Order
4.	03001	Serious	3395(D)(3)	12/10/2019	01/12/2021	\$3,700	\$4,950	\$0	01/27/2020	O - Administrative Law Judge Order
5.	04001	Serious	3395(F)(2)(A)	12/10/2019	01/12/2021	\$3,700	\$4,950	\$0	01/27/2020	O - Administrative Law Judge Order

Accident Investigation Summary

Summary Nr: 122391.015 Event: 06/12/2019 Employee Becomes Ill From Heat Related Illness

At approximately 1:00 p.m. on June 12, 2019, an employee was doing concrete work . The employee started cramping and sweating and developed a low heart rate and blood pressure. The employee was hospitalized to treat this heat illness.

Keywords: heart, heat, heat index, heat-related illness

Inspection	Degree	Nature	Occupation
1 1407673.015	Non Hospitalized injury		Construction laborers

UNITED STATES
DEPARTMENT OF LABOR

Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210
☎ 800-321-6742 (OSHA)
TTY
www.OSHA.gov

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PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-289842-17
Plaintiff for PAGA Case: A former
Filer/Attorney for PAGA Case: Gaines & Gaines, APLC
Law Firm for PAGA Plaintiff: Gaines & Gaines, APLC
Employer: CENTRAL VALLEY ENGINEERING & ASPHALT, INC.
Date Case Received:
Filer for Employer:
Employer Filer Firm:
Court Type:
Court Name:
PAGA Court Case Number:
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
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1 HANK G. GREENBLATT, ESQ. 143415
2 DREYER BABICH BUCCOLA CALLAHAM & WOOD, LLP
3 20 Bicentennial Circle
4 Sacramento, CA 95826
5 Telephone: (916) 379-3500
6 Facsimile: (916) 379-3599
7 hgreenblatt@dbbc.com

8 Attorneys for Plaintiff

FILED

Superior Court Of California,
Sacramento

09/08/2009

emuniz

By , Deputy

Case Number:

34-2009-00057018

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SACRAMENTO

Department
Assignments
Case Management 45
Law and Motion 53
Minors Compromise 42

11 DAVE LUCCI,

12 Plaintiff,

13 v.

14 CITY OF FOLSOM, CENTRAL VALLEY
15 ENGINEERING & ASPHALT, INC., and
DOES 1 through 20, inclusive,

Defendants.

Case No.:

**COMPLAINT FOR PERSONAL
INJURIES**

17
18 Plaintiff DAVE LUCCI complain against Defendants CITY OF FOLSOM, CENTRAL
19 VALLEY ENGINEERING & ASPHALT, INC., and DOES 1 through 20, inclusive, and allege
20 as follows:

21 **FIRST CAUSE OF ACTION**

22 **(Personal Injuries)**

23 1. The true names and capacities -- whether individual, corporate, associate or
24 otherwise -- of Defendants DOES 1 through 20, are unknown to Plaintiff, who therefore sues
25 such DOES by such fictitious names. Plaintiff will amend this Complaint to show their true
26 names and capacities when the same have been ascertained. Each of the Defendants, and DOES
27 1 through 20, are legally responsible in some manner -- negligently, in warranty, strictly, or
28 otherwise -- for the incident that is the subject of this Complaint.

1 2. Plaintiff is now, and at all times herein mentioned was, a citizen of and resident
2 within the County of Sacramento, State of California. Plaintiff further alleges that each
3 Defendant is a citizen and resident of, or doing business within, the County of Sacramento,
4 State of California, and/or is a public entity within the State of California. The amount in
5 controversy is in excess of the minimal jurisdictional limits of this Court.

6 3. Plaintiff has caused a written Claim for Personal Injuries to be served on City of
7 Folsom, which claim has been denied by the appropriate authorities. Plaintiffs have complied
8 with all applicable Government Code claims procedures.

9 4. Defendants CENTRAL VALLEY ENGINEERING & ASPHALT, INC., and
10 DOES 11 through 20 made the repairs to the roadway with the knowledge, consent and
11 permission of Defendants CITY OF FOLSOM and DOES 1 through 10, and within the course
12 and scope of their agency and/or employment with Defendants CITY OF FOLSOM and DOES
13 1 through 10.

14 5. Defendants CENTRAL VALLEY ENGINEERING & ASPHALT, INC., and
15 DOES 11 through 20 were the agents, employees or contractors of Defendants CITY OF
16 FOLSOM and DOES 1 through 10, and were at all times acting within the course and scope of
17 said agency, employment or contract, and with the permission, knowledge and consent of each
18 remaining Defendants.

19 6. Defendant CITY OF FOLSOM and DOES 1 through 10 also negligently hired,
20 trained, and/or supervised Defendant CENTRAL VALLEY ENGINEERING & ASPHALT,
21 INC., and 11 through 20 in such a fashion as to cause and/or contribute to the occurrence of the
22 incident described herein.

23 7. Defendants CITY OF FOLSOM and DOES 1 through 10 are liable to Plaintiffs
24 for the negligence of Defendants CENTRAL VALLEY ENGINEERING & ASPHALT, INC.,
25 and DOES 11 through 20 within the course and scope of the latter's employment and/or agency,
26 by virtue of Government Code Section 815.2. All Defendants are liable to Plaintiffs for their
27 negligence, pursuant to Government Code Section 820.

28 8. On or about June 2, 2009, Defendants CENTRAL VALLEY ENGINEERING &

1 ASPHALT, INC., and DOES 11 through 20, made repairs to Seaton Drive in the County of
2 Sacramento, State of California. At the same general time and location, Plaintiff DAVE LUCCI
3 was driving northbound on Seaton Drive, when Plaintiff slid on the repaired area that was
4 covered with sand, thereby causing injury and damages to Plaintiff.

5 9. Defendants, CITY OF FOLSOM, CENTRAL VALLEY ENGINEERING &
6 ASPHALT, INC., and DOES 1 through 20, and each of them, negligently entrusted, managed,
7 maintained, drove, operated, repaired, manufactured and designed the roadway so as to cause
8 the resulting injuries and damages to Plaintiffs.

9 10. As a result of the negligence of Defendants, Plaintiff DAVE LUCCI suffered
10 personal/bodily injuries, resulting in economic and non-economic damages. Economic damages
11 include, but are not limited to, (1) past and future medical and/or ancillary related expenses, (2)
12 past and future income and/or earning capacity loss, (3) loss of ability to provide household
13 services, and (4) incidental and consequential damages and/or property damage and loss of use.
14 Non-economic damages include, but are not limited to (1) past and future physical and mental
15 suffering, (2) loss of enjoyment of life, (3) physical impairment, (4) inconvenience, (5) anxiety,
16 and (6) emotional distress.

17 Plaintiff DAVE LUCCI prays for judgment against Defendants for:

- 18 a. Non-economic damages in excess of the jurisdictional limit of this Court;
- 19 b. All medical and incidental expenses according to proof;
- 20 c. All loss of earnings according to proof;
- 21 d. Prejudgment interest to the extent permitted by law;
- 22 e. All costs of suit; and
- 23 f. Such other and further relief as this Court may deem just and proper.

24 DATED: 9/4/09

DREYER BABICH BUCCOLA CALLAHAM & WOOD, LLP

25
26 By: 
27 HANK G. GREENBLATT

28

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) Stephen E. Horan, Esq. (SBN 125241) PORTER SCOTT 350 University Avenue, Suite 200 Sacramento, CA 95825 TELEPHONE NO (916) 929-1481 FAX NO (Optional) (916) 927-3706 E-MAIL ADDRESS (Optional) shoran@porterscott.com ATTORNEY FOR (Name) Defendant/Cross-Complainant, CITY OF FOLSOM</p>	<p>FOR COURT USE ONLY</p> <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 80%;"> <p>FILED/ENDORSED</p> <p style="font-size: 1.2em;">OCT 16 2009</p> <p>By: <u>A. WOODWARD</u> <small>Deputy Clerk</small></p> </div>
<p>NAME OF COURT STREET ADDRESS 720 Ninth Street MAILING ADDRESS CITY AND ZIP CODE Sacramento 95814 BRANCH NAME</p>	
<p>SHORT TITLE: LUCCI V. CITY OF FOLSOM, ET AL.</p>	
<p>CROSS-COMPLAINANT. City of Folsom</p> <p>CROSS-DEFENDANT Central Valley Engineering & Asphalt, Inc. ("CVEA"); Financial Pacific Insurance Company ("FPIC"); and</p> <p><input checked="" type="checkbox"/> DOES 1 TO <u>50</u>, <u>Inclusive</u>.</p>	
<p>CROSS-COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Causes of Action (check all that apply): <input checked="" type="checkbox"/> Apportionment of Fault <input checked="" type="checkbox"/> Declaratory Relief <input checked="" type="checkbox"/> Indemnification <input checked="" type="checkbox"/> Other (specify): Breach of Contract</p>	
<p>Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE (\$25,000 or less) <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) It <input type="checkbox"/> is <input checked="" type="checkbox"/> is not reclassified as unlimited by this cross-complaint</p>	<p>CASE NUMBER 34-2009-00057018</p>

1. CROSS-COMPLAINANT (name): City of Folsom
 alleges causes of action against CROSS-DEFENDANT (name): CVEA; FPIC; and DOES 1-50, Inclusive
 2. This pleading, including exhibits and attachments, consists of the following number of pages: 3
 3. Each cross-complainant named above is a competent adult
 - a. except cross-complainant (name): City of Folsom
 - (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):
- Information about additional cross-complainants who are not competent adults is contained in Cross-Complaint—Attachment 3.

SHORT TITLE: <p style="text-align: center; margin: 0;">Lucci v. City of Folsom, et al.</p>	CASE NUMBER <p style="text-align: center; margin: 0;">34-2009-00057018</p>
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4. Each cross-defendant named above is a natural person

- a. except cross-defendant (name) CVEA
- (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (describe):
 - (4) a public entity (describe).
 - (5) other (specify):

- b. except cross-defendant (name): FPIC
- (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (describe):
 - (4) a public entity (describe):
 - (5) other (specify):

Information about additional cross-defendants who are not natural persons is contained in Cross-Complaint—Attachment 4.

5. The true names and capacities of cross-defendants sued as Does are unknown to cross-complainant.

6. Cross-complainant is required to comply with a claims statute, and

- a. has complied with applicable claims statutes, or
- b. is excused from complying because (specify):

7. FIRST Cause of Action—Indemnification
(NUMBER)

- a. Cross-defendants were the agents, employees, co-venturers, partners, or in some manner agents or principals, or both, for each other and were acting within the course and scope of their agency or employment.
- b. The principal action alleges, among other things, conduct entitling plaintiff to compensatory damages against me. I contend that I am not liable for events and occurrences described in plaintiff's complaint.
- c. If I am found in some manner responsible to plaintiff or to anyone else as a result of the incidents and occurrences described in plaintiff's complaint, my liability would be based solely upon a derivative form of liability not resulting from my conduct, but only from an obligation imposed upon me by law; therefore, I would be entitled to complete indemnity from each cross-defendant.

8. SECOND Cause of Action—Apportionment of Fault
(NUMBER)

- a. Each cross-defendant was responsible, in whole or in part, for the injuries, if any, suffered by plaintiff.
- b. If I am judged liable to plaintiff, each cross-defendant should be required: (1) to pay a share of plaintiff's judgment which is in proportion to the comparative negligence of that cross-defendant in causing plaintiff's damages; and (2) to reimburse me for any payments I make to plaintiff in excess of my proportional share of all cross-defendants' negligence.

SHORT TITLE: <p style="text-align: center;">Lucci v. City of Folsom, et al.</p>	CASE NUMBER <p style="text-align: center;">34-2009-00057018</p>
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9. THIRD Cause of Action—Declaratory Relief
(NUMBER)

An actual controversy exists between the parties concerning their respective rights and duties because cross-complainant contends and cross-defendant disputes as specified in Cross-Complaint—Attachment 9
 as follows:

Plaintiff alleges injury arising, in part, from the work of CVEA under its contract with Folsom. Folsom is an additional insured with Financial Pacific Insurance Company, Policy #176160B for said work. Cross-Defendant's duty to defend is measured by whether there is a potential for coverage in Plaintiff's allegations on their face establish such duty. Cross-Defendants have denied Folsom's tender and are in breach. Cross-Defendants breach has and continues to cause Folsom damage.

10. FOURTH Cause of Action—(specify): Breach of Contract
(NUMBER)

Plaintiff alleges injury arising, in part, from the work of CVEA under its contract with Folsom. Folsom is an additional insured with Financial Pacific Insurance Company, Policy #176160B for said work. Cross-Defendant's duty to defend is measured by whether there is a potential for coverage in Plaintiff's allegations on their face establish such duty. Cross-Defendants have denied Folsom's tender and are in breach. Cross-Defendants breach has and continues to cause Folsom damage.

11. The following additional causes of action are attached and the statements below apply to each (in each of the attachments, "plaintiff" means "cross-complainant" and "defendant" means "cross-defendant"):

- a. Motor Vehicle
- b. General Negligence
- c. Intentional Tort
- d. Products Liability
- e. Premises Liability
- f. Other (specify):

12. **CROSS-COMPLAINANT PRAYS** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. total and complete indemnity for any judgments rendered against me.
- b. judgment in a proportionate share from each cross-defendant.
- c. a judicial determination that cross-defendants were the legal cause of any injuries and damages sustained by plaintiff and that cross-defendants indemnify me, either completely or partially, for any sums of money which may be recovered against me by plaintiff.
- d. compensatory damages
 - (1) (unlimited civil cases) according to proof.
 - (2) (limited civil cases) in the amount of: \$
- e. other (specify):
fees and costs

13. The paragraphs of this cross-complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: October 16, 2009

Stephen E. Horan, Esq.

(TYPE OR PRINT NAME)


(SIGNATURE OF CROSS-COMPLAINANT OR ATTORNEY)

1 **Lucci v. City of Folsom, et al.**
2 **Sacramento County Superior Court, Case No. 34-2009-00057018**

3 **PROOF OF SERVICE (CCP 1013(a), 2915)**

4 I am a citizen of the United States and a resident of the County of Sacramento. I am
5 over the age of eighteen years and not a party to the above-entitled action; my business address is 350
6 University Avenue, Suite 200, Sacramento, CA 95825.

7 On the date below I served the enclosed **CITY OF FOLSOM'S CROSS-**
8 **COMPLAINT and SUMMONS ON CROSS-COMPLAINT** addressed as follows:

9 **Attorneys for Plaintiff**

10 **DAVE LUCCI:**
11 Hank G. Greenblatt (SBN.143415)
12 **DREYER, BABICH, BUCCOLA,**
13 **CALLAHAM & WOOD, LLP**
14 20 Bicentennial Circle
15 Sacramento, CA 95826
16 Tel: 916-379-3500
17 Fax: 916-379-3599
18 Email: hgreenblatt@dbbc.com

19 **Attorneys for Defendant/Cross-Defendant,**
20 **CENTRAL VALLEY ENGINEERING &**
21 **ASPHALT, INC:**

22 Bradley R. Larson
23 **GREVE, CLIFFORD,**
24 **WENGEL & PARAS, LLP**
25 2870 Gateway Oaks Drive, Suite 210
26 Sacramento, CA 95833-4324
27 Tel: 916-443-2011
28 Fax: 916-441-7457
29 Email: bradleylarson@greveclifford.com

30 **BY MAIL.** I am familiar with this Company's practice whereby the mail, after being
31 placed in a designated area, is given the appropriate postage and is deposited in a U.S. mailbox in the
32 City of Sacramento, California, after the close of the day's business.

33 **BY PERSONAL SERVICE.** I caused such document to be delivered by hand to the
34 office of the person(s) listed above.

35 **BY FACSIMILE TRANSMISSION AND MAIL.** I caused such document to be
36 transmitted via facsimile to the numbers above, with copies following by United States mail at
37 Sacramento, California.

38 **BY OVERNIGHT DELIVERY.** I caused such document to be delivered by
39 overnight delivery to the office of the person(s) listed above.

40 I declare under penalty of perjury that the foregoing is true and correct and was
41 executed on **October 16, 2009.**

42
43 
44 **Nicole Sherman**

1 LEEGOFF LAW FIRM
2 Ava L. Goff, SBN 282713
3 1860 Howe Ave. Ste. 270D
4 Sacramento, CA 95825
5 Tel: 916-649-1364
6 Fax: 916-649-1377

7 *Attorney for Plaintiff*
8 *Bee Lor*

FILED
Superior Court Of California,
Sacramento
10/27/2017
jimora
By _____, Deputy
Case Number:
34-2017-00221363

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO

11 Bee Lor

12 Plaintiff,

13 vs.

14 Antonio Garcia, Central Valley Engineering &
15 Asphalt, Inc. and DOES 1-10

16 Defendant

Case No.:

COMPLAINT FOR NEGLIGENCE

17
18
19 Plaintiff Bee Lor complains against Defendants Antonio Garcia, Central Valley Engineering &
20 Asphalt, Inc. and DOES 1-10 (collectively "Defendants") and allege as follows:

21 **GENERAL ALLEGATIONS**

- 22
23 1. The true names and capacities – whether individual, corporate, associate or otherwise –
24 of Defendants DOES 1 through 10, are unknown to Plaintiff, who therefore sues such
25 DOES by such fictitious names. Plaintiff will amend this Complaint to show their true
26 names and capacities when the same have been ascertained. Each of the Defendants and
27
28

COMPLAINT FOR NEGLIGENCE

1 DOES 1 through 10, are legally responsible in some manner – negligently, in warranty,
2 strictly, or otherwise – for the incident that is the subject of this Complaint.

- 3
4 2. Plaintiff is now, and at all times herein mentioned, a resident of the County of Butte,
5 State of California. Plaintiff further alleges that each Defendant is a citizen and resident
6 of, or doing business within, the County of Sacramento, State of California.
- 7 3. Defendant Central Valley Engineering & Asphalt Inc. is a California Corporation doing
8 business in the County of Sacramento, State of California. Plaintiff further alleges that
9 Defendant ANTONIO GARCIA is a citizen and resident of, or doing business, within the
10 County of Sacramento, State of California. The accident which is the subject of this
11 action occurred in the County of Sacramento, California. The amount in controversy is in
12 excess of the minimal jurisdictional limits of this Court.
- 13
14 4. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned
15 each of the Defendants were the agent, employee, or contractor of each of the remaining
16 Defendants and, in doing the things hereinafter alleged, was acting within the course and
17 scope of such agency, employment, or contract.
- 18
19 5. Plaintiff further alleges that Defendants negligently hired, trained, and/or supervised the
20 other Defendants in such a fashion as to cause and/or contribute to the occurrence of the
21 incident described herein.
- 22
23 6. Defendants were the owners and/or operators of the subject vehicle(s). All defendants
24 operated the vehicle(s) with the knowledge and consent of all other Defendants.

25 **FIRST CAUSE OF ACTION**

26 **(Negligence)**

27
28 COMPLAINT FOR NEGLIGENCE

1 7. Paragraphs 1 through 4 of this Complaint are incorporated into this cause of action as
2 though fully set forth herein.

3
4 8. On November 4, 2015, Plaintiff Bee Lor was the seat belted driver of a 2010 Toyota
5 Camry. Plaintiff was traveling westbound in the number 5 lane on Interstate 80 in
6 Sacramento County, California. Plaintiff slowed his vehicle and came to a complete stop
7 in response to slowed and stopped traffic ahead of him. At the same time and location
8 Defendants failed to pay attention to traffic ahead of him and rear-ended Plaintiff's
9 vehicle, thereby causing injuries and damages to Plaintiff.

10
11 9. Defendants negligently entrusted, managed, maintained, drove, operated, repaired,
12 manufactured and designed the vehicle so as to cause the collision and the resulting
13 injuries and damages to Plaintiff.

14
15 10. As a result of the negligence of Defendants, Plaintiff suffered personal / bodily injuries,
16 resulting in economic and non-economic damages. Economic damages include, but are
17 not limited to, (1) past and future medical and/or ancillary related expenses, (2) past and
18 future income and/or earning capacity loss, (3) loss of ability to provide household
19 services, and (4) incidental and consequential damages and/or property damage and loss
20 of use. Non-economic damages include, but are not limited to (1) past and future physical
21 and mental suffering, (2) loss of enjoyment of life, (3) physical impairment, (4)
22 inconvenience, (5) anxiety, and (6) emotional distress.


23
24 Plaintiff Prays for judgment against Defendants for:

- 25 a. Non-economic damages;
26
27 b. All medical and incidental expenses according to proof;
28
c. All loss of earning according to proof;

- 1 d. Prejudgment interest to the extent permitted by law;
2 e. All costs of suit; and
3 f. Such other and further relief as this Court may deem just and proper.
4

5
6 Dated: October 26, 2017
7
8

9
10 LEEGOFF LAW FIRM

11 
12 _____
13 AVA L. GOFF
14 Attorney for Plaintiff
15
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Attachment 3

Response letter from Central Valley Engineering
& Asphalt



General Engineering Contractor

CA Lic. No. 773404 • NV Lic. No. 0068786

June 13, 2023

Ryan Chance, P.E.
Capital Improvements Project Engineer
City of Folsom - Public Works Department
50 Natoma Street
Folsom, CA 95630

Re: Blue Ravine Rd. - Prairie City Rd./E. Bidwell St. Pavement Rehabilitation FY 22-23

Dear Mr. Chance,

This letter is in response to the bid “advisory” that was levied by the Foundation for Fair Contracting (FFC). I would like to thank you for the opportunity to respond to this protest attempt. There are several reasons why this protest should not be considered. The first of which is that per the Resolution of Disputes Regarding the Bidding Process found in the City’s Project Manual and Bid Documents, the FFC has no legal standing in which to file a protest against our bid. Per the Resolution of Disputes, Section 2, “All bidders will be provided with an opportunity to bring to the City Council’s attention disputes and/or protests regarding the bidding process.” and clearly, the FFC was not a bidder. The FFC’s interest in these bid results is a product of the first and second place bidder being non-union contractors and the third place bidder being an FFC donor and supporter.

However, the above procedural reason why the protest should not be considered is not the full story. The most important reason why Central Valley Engineering & Asphalt, Inc. should be considered a responsible bidder is that the FFC’s claims are either misleading or false. These claims are dishonest and predatory and were made in an attempt to discredit our company and cause slanderous and defamatory damage to our reputation. We believe the reason the FFC (funded by the Operating Engineers Local #3) has harassed us and other local area non-union contractors competing in the public works market is for the sole reason that we maintain our non-union status.

In an attempt to lend some context to the accusations levied against us, I will address the issues raised by the FFC. Over the course of our 23 years as a general engineering contractor in the Sacramento region we have had one occurrence of investigation from the Department of Industrial Relations (DIR). This one occurrence began in December of 2016. From seemingly nowhere, 26 investigations were launched by the DIR. Perhaps most illuminating

is that these investigations were initiated by complaints from the FFC, not our employees. The FFC alleged to the DIR a number of ridiculous claims, chief among them was that we were stealing the employees fringe pay. Noteworthy is that 3 separate Deputy Labor Commissioners admitted to us that in all their time at the DIR, they could only remember 1 time that a DIR investigation had been conducted against a union contractor. The DIR did a cursory review and issued wage and penalty assessments with very little investigation. Immediately after receiving the assessments, we met with the Deputy Labor Commissioner and were able to quickly demonstrate with documented proof that the claims made by the FFC were utterly baseless. After that meeting, the Deputy Labor Commissioner closed 21 of the 26 investigations with a finding of no wrong doing.

The DIR did find small mistakes made on 5 of the projects for which they issued a penalty. In summary, the issues revolved around minor procedural imperfections in how we were requesting apprentices from the apprenticeship committees. Several of the laborer apprenticeship committees share the same street address. Rather than send multiple parcels to the same address, we were sending our apprentice request (DAS 140/142) paperwork to the committees that share the same address in the same envelope. We have since amended our process to send separate envelopes to each committee, even if they share the same physical address. Since we have made these minor improvements, we have had no new investigations from the DIR.

We find it ridiculous that the FFC has concluded that since our bid was below the engineer's estimate, that we must be stealing from our employees and that we will be forced to make up for any shortfall with unwarranted change orders. During the course of a long and mutually beneficial relationship with the City of Folsom, we have been the prime contractor on 31 projects with a construction value of approximately \$18,500,000. Additionally, we have worked as a subcontractor for others contracted with the City or worked on private projects within the City over the course of our 23 years in business. These projects number approximately 270 with a construction value of \$7,000,000. We currently have several employees residing in the City, and the remainder of our workforce represents 24 other cities throughout the Sacramento region.

Contrary to the FFC's accusations, we request and employ all dispatched apprentices. Just in the past 5 years, we have hired 67 apprentices on various projects throughout the Sacramento region totaling pay of approximately \$200,000.

The FFC alleges safety infractions that resulted in worker injuries. **15 years ago**, in 2008, we did have an injury that resulted in lacerations to the forearm of our shop mechanic. We quickly and properly cared for the employee, but reported this injury later than required and were fined accordingly. It is preposterous to allege that this one injury indicates that we maintain an unsafe work environment. To the contrary, we consistently have maintained an experience modification rate below 1.0. We maintain an "A" rating with ISNetworkworld (ISN) and are Railroad and Gold Shovel Standard certified.

Finally, regarding the two lawsuits referenced by the FFC, I can confirm that we were sued by a motorcyclist that slipped on a newly paved road and we had an employee that was involved in a vehicle accident during the course of his employment.

We respectfully request that the City stand behind its fair bid results and reject the aggressive, predatory attacks against us and the second place bidder motivated for the sole reason that we dare to operate a legal, non-union business in the State of California. We request that the City accept our responsible low bid. We look forward to working with the City on this project.


Sincerely,



Warren Holt, P.E.
President

Attachment: Department of Industrial Relations Rescinding Letters

CC: City of Folsom
Mayor Rosario Rodriguez – rrodriguez@folsom.ca.us
Vice Mayor YK Chalamcheria – ykc@folsom.ca.us
Councilmember Sarah Aquino – saquino@folsom.ca.us
Councilmember Mike Kozlowski – mkozlowski@folsom.ca.us
Councilmember Anna Rohrbough – annar@folsom.ca.us
Director of Public Works Mark Rackovan, P.E. – mrackovan@folsom.ca.us

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Ave, Suite 100 Sacramento, CA 95825 TEL: 916-263-3305 FAX: 916-263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., a California corporation 216 Kenroy Lane Roseville, CA 95678 Warren G. Holt	
DATE: February 6, 2018	In Reply Refer to Case No. 40-53206

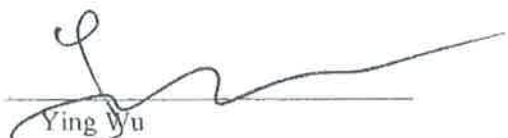
NOTICE OF COMPLAINT CLOSED


Project Name 2016 ADA Project	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By 
 Ying Wu
 Deputy Labor Commissioner II

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., A California Corporation	
DATE: June 29, 2017	In Reply Refer to Case No: 40-53362


NOTICE OF COMPLAINT CLOSED


Project Name ST55,ST58,ST66-Asphalt Repair	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., A California Corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By 
Jerry McClain
Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., A California Corporation 216 Kenroy Lane Roseville, CA 95678	
DATE: June 29, 2017	In Reply Refer to Case No: 40-53363


NOTICE OF COMPLAINT CLOSED


Project Name ST50-ST51-ST53-ST54-ST61-ST63-Asphalt Repair	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., A California Corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____
- _____
- _____
- _____

STATE LABOR COMMISSIONER

By  _____
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., A California Corporation 216 Kenroy Lane Roseville, CA 95678 Warren Gilbert Holt	
DATE: June 29, 2017	In Reply Refer to Case No: 40-53364

NOTICE OF COMPLAINT CLOSED


Project Name 2016 Residential St. Resurfacing	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., A California Corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By  _____
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., A California Corporation 216 Kenroy Lane Roseville, CA 95678 Warren Gilbert Holt	
DATE: June 29, 2017	In Reply Refer to Case No: 40-53365

NOTICE OF COMPLAINT CLOSED


Project Name UPRR Pedestrian Crossing & Bicycle Path Improvements	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., A California Corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., A California Corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By 
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., A California Corporation 216 Kenroy Lane Roseville, CA 95678	
DATE June 29, 2017	In Reply Refer to Case No: 40-53366

NOTICE OF COMPLAINT CLOSED


Project Name Mariposa Avenue Slope Repair Project	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., A California Corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By Jerry McClain
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3923 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc. 216 Kenroy Lane Roseville, CA 95678	
DATE: March 1, 2017	In Reply Refer to Case No: 40-53378


NOTICE OF COMPLAINT CLOSED


Project Name Pedestrian and ADA Improvements East Oak	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
 - The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
 - There is insufficient evidence to confirm California Public Work Law was violated.
 - Subject firm was not within the jurisdiction of California Public Work Law on this project.
 - Other: No violations found.
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STATE LABOR COMMISSIONER

By 
 Thuy Pham
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3923 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc. 216 Kenroy Lane Roseville, CA 95678	
DATE: October 27, 2018	In Reply Refer to Case No: 40-53379


NOTICE OF COMPLAINT CLOSED


Project Name Maidu Park Accessible Parking Lot	Project No 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: No violation found.

STATE LABOR COMMISSIONER

By 
 Thuy Pham
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3923 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc. 216 Kenroy Lane Roseville, CA 95678	In Reply Refer to Case No: 40-53380
DATE: October 27, 2017	

NOTICE OF COMPLAINT CLOSED


Project Name 2016 Accessibility and Drainage Improvements ADA	Project No 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: No violations found.

STATE LABOR COMMISSIONER

By Thuy Pham
 Thuy Pham
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3923 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc. 216 Kenroy Lane Roseville, CA 95678	
DATE: September 18, 2017	In Reply Refer to Case No 40-53383

NOTICE OF COMPLAINT CLOSED


Project Name Sidewalk Curb 2016	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: No violations found.

STATE LABOR COMMISSIONER

By _____
 Thuy Pham
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3923 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc. 216 Kenroy Lane Roseville, CA 95678	
DATE September 18, 2017	In Reply Refer to Case No: 40-53384


NOTICE OF COMPLAINT CLOSED


Project Name Street Improvements East Broad Street & Main Street	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
 - The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
 - There is insufficient evidence to confirm California Public Work Law was violated.
 - Subject firm was not within the jurisdiction of California Public Work Law on this project.
 - Other: No violation found.
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STATE LABOR COMMISSIONER

By 
 Thuy Pham
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-3305 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt Inc., a California corporation 216 Kenroy Lane Roseville, CA 95678 Warren G. Holt	
DATE: February 6, 2018	In Reply Refer to Case No: 40-53418
NOTICE OF COMPLAINT CLOSED	
Project Name 2015 RSTP Arterial Microsurfacing	Project No 0
Prime Contractor Central Valley Engineering & Asphalt Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):


- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44 Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____
- _____
- _____
- _____

STATE LABOR COMMISSIONER

By


 Ying Wu

Deputy Labor Commissioner II

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-6675 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt, Inc., a California corporation 216 Kenroy Lane Roseville, CA 95678 Warren Gilbert Holt	
DATE: April 27, 2017	In Reply Refer to Case No 40-53458

NOTICE OF COMPLAINT CLOSED


Project Name Brunswick Road Pavement Rehabilitation Project	Project No 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: There were no Prevailing Wage violations found.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-6675 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt Inc., a California corporation 216 Kenroy Lane Roseville, CA 95678 Warren Gilbert Holt	
DATE April 27, 2017	In Reply Refer to Case No. 40-53460

NOTICE OF COMPLAINT CLOSED


Project Name Measure S Paving 2015	Project No 0
Prime Contractor Central Valley Engineering & Asphalt Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: There were no Prevailing Wage violations found.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite #100 Sacramento, CA 95825 TEL: (916) 263-6675 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Central Valley Engineering & Asphalt Inc., a California corporation 216 Kenroy Lane Roseville, CA 95678 Warren Gilbert Holt	
DATE: April 27, 2017	In Reply Refer to Case No 40-53519

NOTICE OF COMPLAINT CLOSED

Project Name Safe Routes to School Improvements East Avenue	Project No 0
Prime Contractor Central Valley Engineering & Asphalt Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: There were no Prevailing Wage violations found.

STATE LABOR COMMISSIONER

By Maria Mercado
 Maria Mercado
 Deputy Labor Commissioner I

Labor Commissioner, State of California

Department of Industrial Relations
Division of Labor Standards Enforcement
2031 Howe Avenue, Suite #100
Sacramento, CA 95825
TEL: (916) 263-2901
FAX: (916) 263-2906

Edmund G. Brown Jr., Governor



Central Valley Engineering & Asphalt, Inc., a California corporation
216 Kenroy Lane
Roseville, CA 95678
Warren Holt

DATE:
August 30, 2017

In Reply Refer to Case No:
40-54579

NOTICE OF COMPLAINT CLOSED

Project Name Stations 28, 24, 101, 25, & 26 Asphalt Repairs	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc., a California corporation	
Subcontractor Central Valley Engineering & Asphalt, Inc., a California corporation	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet v Terich (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippet v Terich decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By 
Jerry McClain
Deputy Labor Commissioner I

Labor Commissioner, State of California
Department of Industrial Relations
Division of Labor Standards Enforcement
2031 Howe Avenue, Suite #100
Sacramento, CA 95825
TEL: (916) 263-2901
EMAIL: jmclain@dir.ca.gov



Edmund G. Brown Jr., Governor



Central Valley Engineering & Asphalt, Inc.
216 Kenroy Lane
Roseville, CA 95678
Warren Gilbert Holt

DATE:
August 30, 2017

In Reply Refer to Case No:
40-54589

NOTICE OF COMPLAINT CLOSED

Project Name Concrete Repair and Pavement Resurfacing	Project No. 0
Prime Contractor Central Valley Engineering & Asphalt, Inc.	
Subcontractor Central Valley Engineering & Asphalt, Inc.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: _____

STATE LABOR COMMISSIONER

By 
Jerry McClain
Deputy Labor Commissioner I

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to facilitate double-sided printing.*



CITY OF
FOLSOM
DISTINCTIVE BY NATURE