

RESOLUTION NO. 2021-R_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY ADOPTING AN UPDATED LABOR COMPLIANCE PROGRAM FOR THE CULVER BOULEVARD STORMWATER FILTRATION/RETENTION PROJECT, PR-002 IN ACCORDANCE WITH STATE OF CALIFORNIA PROPOSITION 84 GRANT REQUIREMENTS AND RESCINDING RESOLUTION NO. 2020-R102.

WHEREAS, the Culver Boulevard Stormwater Filtration/Retention Project, PR-002 ("Stormwater Project") consists of the construction of a retention basin and filtration system to capture, pre-treat, filter and re-use stormwater/urban runoff from a total drainage area of approximately 796 acres, of which 297 acres are within the City of Culver City; and

WHEREAS, on December 18, 2019, the City executed a \$7,778,796 Implementation Grant Agreement with the State Water Board to partially fund the construction of the Stormwater Project; and

WHEREAS, the Grant Agreement requires the adoption and enforcement of a Labor Compliance Program pursuant to Labor Code Section 1771.5(b); and

WHEREAS, the City developed a Labor Compliance Program for the Stormwater Treatment Project consistent with Labor Code Section 1771.5(b), which was approved by the City Council on November 9, 2020 and submitted to the Department of Industrial Relations (DIR); and

WHEREAS, DIR requested additional information be included in the Labor Compliance Program and the Labor Compliance Program has been updated accordingly.

NOW, THEREFORE, the City Council of the City of Culver City DOES
HEREBY RESOLVE as follows:

1. The City Council hereby adopts the updated Labor Compliance Program, attached to this Resolution as Exhibit A and incorporated herein by this reference.

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2. The City Council hereby authorizes the City Manager, or designee, to submit the Labor Compliance Program to the Department of Industrial Relations for approval.

3. This Resolution shall take effect immediately upon its adoption.

APPROVED and ADOPTED this ____ day of _____, 2021.

ALEX FISCH
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:



JEREMY GREEN
City Clerk

CAROL A. SCHWAB
City Attorney

A21-00076



CITY OF CULVER CITY

LABOR COMPLIANCE PROGRAM

JUNE 2021

LABOR COMPLIANCE PROGRAM

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CITY OF CULVER CITY

LABOR COMPLIANCE PROGRAM

Conforms to Labor Compliance Program 2009 Amendments & SB854 Requirements

INTRODUCTION

The City of Culver City (Awarding Body) issues this Labor Compliance Program (LCP) for the purpose of identifying its policy relative to the responsibilities and procedures applicable to the labor compliance provisions of state and federally funded construction contracts. This program contains the labor compliance standards required by state and federal laws, regulations & directives.

The California Labor Code § 1770 et seq. require that building trades contractors on public works pay their workers based on the prevailing wage rates, which are established and issued by the Department of Industrial Relations (DIR), Division of Labor Statistics and Research.

The Awarding Body has adopted this LCP to meet any Labor Compliance mandates on its public works projects. The Awarding Body administers this LCP for monitoring the prevailing wage rates paid to construction workers on the Awarding Body's public works projects. This LCP assures that all contractors and subcontractors comply with the prevailing wage, certified payroll record laws and apprenticeship standards pursuant to the Labor Code §1710 thru §1861.

In establishing this LCP, the Awarding Body adheres to the statutory requirements as promulgated in §1771.5 (b) of the California Labor Code.

Further it is the intent of the Awarding Body to actively enforce this LCP wherein the construction sites shall be monitored for worker classification, apprenticeship standards, the payment of prevailing wage rates and, wherein those contractors and subcontractors having workers on public works sites routinely submit copies of certified payroll records and any other documents required for verification, demonstrating their compliance with the payment of prevailing wage rates.

Questions regarding this Labor Compliance Program should be directed to the Awarding Body's Labor Compliance Administrator:

Name: Sophia Espinoza, PMP
Casamar Group, LLC.
Labor Compliance Officer to the City of Culver City for its Proposition 84 project(s)
Phone: (661) 254-2373
Fax: (661) 253-0549
E-mail: SophiaE@casamargroup.com

SECTION 1: PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

A. Application

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4 and 1771, and include, but are not limited to, such types of work as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermine the appropriate prevailing wage rates for particular construction trades and crafts by county.

B. Applicable Dates for Enforcement of a Labor Compliance Program

The applicable dates for enforcement of this Labor Compliance Program are established by Section 16426 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the Labor Compliance Program until after the program has received initial approval or approved status by the Director of the DIR.

SECTION 2: COMPETITIVE BIDDING ON PUBLIC WORKS CONTRACTS

The Awarding Body shall publicly advertise upcoming public works projects to be awarded according to a competitive bidding process. Further information regarding the requirements of the bidding process may be obtained from the Bid Processing Section. All bid advertisements (or bid invitations) and public works contracts shall contain appropriate language concerning the requirements of chapter 1 of part 7 of division 2 of the State Labor Code.

Pursuant to Labor Code 1725.5 (SB-854) all contractors and subcontractors who bid or work on a public works project must register and pay an annual fee to California Department of Industrial Relations (DIR) for the Contractor Registration. Contractors shall register with the DIR via its online portal: <https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRRegistrationForm>. Although there are exceptions to the registration requirement for bidders in circumstances where a CSLB license would not be required at the time of bidding, no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with DIR.

SECTION 3: JOB START MEETING

After the award of the public works contract, and prior to the commencement of the work, a mandatory Job Start meeting (Pre-Job Labor Compliance Conference) shall be conducted by the Awarding Body's LCP representative with the contractor, subcontractors and any entity providing labor at the site of the work. Applicable Federal and State labor law requirements shall be discussed and suggested reporting forms provided.

At the Pre-Job Labor Compliance Conference the LCP representative will provide the contractor and each subcontractor with a Checklist of Labor Law Requirements (presented as Attachment A on pages 23 - 24) and will discuss in detail the following checklist items:

1. The contractor's & subcontractors duty to pay prevailing wages (Labor Code Section 1771, et seq.);
2. The contractor's & subcontractor's duty to employ registered apprentices on public works projects (Labor Code Section 1777.5);

3. The penalties for failure to pay prevailing wages (for nonexempt projects) and to employ apprentices, including forfeitures and debarment (Labor Code Sections 1775 and 1777.7& 1813);
4. The requirement to maintain and submit copies of certified payroll records to the Labor Compliance Administrator upon request *at least monthly or within (10 days) of request by the awarding body*. (Labor Code Section 1776), and penalties for failure to do so (Labor Code Section 1776(h));
5. The prohibition against employment discrimination (Labor Code Sections 1735 and 1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended);
6. The prohibition against taking or receiving a portion of an employee's wages (Labor Code Section 1778);
7. The prohibition against accepting fees for registering any person for public works (Labor Code Section 1779) or for filing work orders on public works (Labor Code Section 1780);
8. The requirement to list all subcontractors that are performing 1/2 of one percent of the total amount of the contract (Government Code Section 4100, et seq.);
9. The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed (Labor Code Section 1021 and 1021.5, and Business and Professions Code Section 7000, et seq., under California Contractors License Law);
10. The prohibition against unfair competition (Business and Professions Code Sections 17200-17208);
11. The requirement that the contractor & subcontractor be properly insured for Workers' Compensation (Labor Code Section 1861);
12. The requirement that the contractor abide by the Occupational Safety and Health laws and regulations that apply to the particular public works project; and
13. The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility and citizenship from all workers.
14. The requirement that all employees be given an itemized wage deduction statement with each payment of wages (Labor Code Section 226 et. seq).

The contractors and subcontractors attending the Job Start meeting will be given the opportunity to ask questions of the LCP representative relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's/subcontractors authorized representative and the Awarding Body's LCP representative. Signed copies from each conference shall be kept on file.

At the Job Start meeting, the LCP representative will provide the contractor with a copy of the LCP package which includes: a copy of the approved Labor Compliance Program, the checklist of Labor Law Requirements, applicable Prevailing Wage Determinations, blank certified payroll record forms, fringe benefit statement forms, state apprenticeship requirements, and a copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, § 1720-1861). It will be the contractor's responsibility to provide copies of the LCP package to all listed subcontractors and to any substituted subcontractors.

SECTION 4: INVESTIGATIVE METHODS

A. *Certified Payroll Records Required*

The contractor shall maintain payrolls and basic records (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs, etc.) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working at the public works project sites *in accordance with Labor Code §1776*. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions for, or costs to provide fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid.

Although the Awarding Body will collect Certified Payroll Records from project contractors pursuant to its obligations under Labor Code 1726, the passage of SB-854 requires all public works contractors and subcontractors to furnish electronic certified payroll records directly to the Labor Commissioner/DLSE. For all new projects awarded on or after April 1, 2015, the contractors and subcontractors must furnish electronic certified payroll records to the Labor Commissioner using the DLSE's online portal:

<https://apps.dir.ca.gov/ecpr/DAS/AltLogin>

California Code of Regulations §16401(a) stipulates the format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the DLSE throughout the state and/or: Division of Labor Statistics & Research P.O. Box 420603 San Francisco, CA 94101; ATTENTION: Prevailing Wage Unit.

Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131). The wording / format for the Certified Payroll Record's Statement of Compliance acceptable by the Awarding Body is included herein under Attachment F.

1. Submittal of Certified Payroll Records

The contractor shall maintain weekly certified payroll records for submittal to the Awarding Body's labor compliance office on a weekly basis. The contractor shall be responsible for the submittal of payroll records of all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the contractor indicating that the payroll records are correct and complete, and the wage rates contained therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed by each employee.

The certified payroll records submitted pursuant to this section shall be on forms provided by the Division of Labor Standards Enforcement (A-1-131) or shall contain the same information. Forms missing any information as required on DLSE form (A-1-131) may be determined inadequate and subject to withholding under section 1771.5 (b)(5) and §16435 (d) of Title 8 of the California Code of Regulations, and as further described in section 6 (B) of this manual. Employer payments (fringe

benefits) when taken as a credit against the prevailing per diem wages shall be identified on form PW26 and submitted with the first certified payroll report and any subsequent certified payroll report where wages or employer payments have changed.

Time cards, front and back copies of cancelled checks, daily logs, employee sign-in sheets and/or other records maintained for the purpose of reporting payroll may be requested by the LCP at any time and shall be provided within 10 days following the receipt of the request.

2. Use of Electronic Reporting Forms

The certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically subject to all of the following conditions:

- (a) The reports must contain all of the information required by Labor Code Section 1776, with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations' suggested "Public Works Payroll Reporting Form" (Form A-1-131);
- (b) The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, Labor Compliance Programs, and the Department of Industrial Relations;
- (c) Reports submitted to the Awarding Body, the Division of Labor Standards Enforcement, or other entity within the Department of Industrial Relations must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature;
- (d) The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e), whether the records are provided electronically or as hard copies; and
- (e) No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

3. Review Payroll Records

Payroll records submitted by contractors and subcontractors, shall be reviewed by the Awarding Body's LCP staff as promptly as practicable after receipt thereof, but in no event more than (30) days after receipt. "Review" for this purpose shall be defined as inspection of the records to determine if (1) all appropriate data elements identified in Labor Code §1776 (a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code §1776 (b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described below.

4. Confirmation of Payroll Records

Pursuant to California Code of Regulations 16432(c), "confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing

wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

5. On-Site Visits

Representatives of the LCP shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with California Code of Regulations §16429, listing a telephone number to call for inquiries, questions, or assistance with regard to the LCP. On-Site Visits may include other activities deemed necessary by the LCP to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

6. Full Accountability

Each individual, laborer or craftsperson working on a public works contract must appear on the payroll. The basic concept is that the employer who pays the trades' worker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable trade. Owner-operators are to be reported by the contractor employing them; rental equipment operators are to be reported by the rental company paying the workers' wages. Sole owners and partners who work on a contract must also submit a certified payroll record listing the days and hours worked, and the trade classification descriptive of the work actually done. The contractor shall make the records required under this section available for inspection by an authorized representative of the LCP and the Department of Industrial Relations, and shall permit such representatives to interview trades workers during hours on the project site.

7. Responsibility for Subcontractors

The contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors in the manner specified by Labor Code Section 1775

- a. The contractor shall monitor the payment of the specified general prevailing per diem wages by each subcontractor to its employees by weekly review of the subcontractor's certified payroll records.
- b. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project

(upon receipt of notification that a wage complaint has been resolved, the contractor shall pay any money retained from and owed to a subcontractor).

c. Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the general prevailing rate of per diem wages to its employees on the public works project, as well as any penalties, which have been imposed for working hours violations (Labor Code § 1813).

8. Payment to Employees

a. Employees must be paid unconditionally, and not less often than once each week, the full amounts that are due and payable for the period covered by the particular payday. An employer must, therefore, establish a fixed workweek (i.e., Sunday through Saturday) and an established payday (such as Friday or the preceding day should such payday fall on a holiday). On each and every payday, each worker must be paid all sums due as of the end of the preceding workweek and must be provided with an itemized wage statement.

b. If an individual is called a subcontractor, when, in fact, he/she is merely a journey level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the contractor who contracted for his or her services as a trade's worker.

c. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the contractor who contracted for his or her services for purposes of prevailing wage requirements, certified payroll & workers compensation laws.

d. A worker's rate for straight time hours must be equal to or exceed the rate specified in the contract by reference to the Prevailing Wage Rate Determinations for the class of work actually performed. Any work performed on Saturday, Sunday, and/or a holiday, or a portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek. The hourly rate for hours worked in excess of 8 hours in a day or 40 hours in a workweek shall be premium pay. All work performed in excess of eight hours per day, 40 hours per week, on Saturday, on Sunday, and on holiday shall be paid in accordance with the applicable Prevailing Wage Determination.

9. Requests for Certified Payroll Records

Pursuant to California Code of Regulations §16400:

(a) Requests may be made by any person for certified copies of payroll records. Requests shall be made to any of the following:

- (1) the body awarding the contract, or
- (2) any office of the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards.

(b) Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

- (1) The body awarding the contract;
- (2) The contract number and/or description;
- (3) The particular job location if more than one;
- (4) The name of the contractor;
- (5) The regular business address, if known.

NOTE: Requests for records of more than one contractor or subcontractor must list the information regarding that contractor individually, even if all requests pertain to the same particular public works project. Blanket requests covering an entire public works project will not be accepted; unless contractor and subcontractor responsibilities regarding the project are not clearly defined.

(c) Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records.

(d) Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

- (1) Specify the records to be provided and the form upon which the information is to be provided;
- (2) Conspicuous notice of the following:
 - (A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and
 - (B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five (\$25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;
- (3) Cost of preparation as provided in Section 16402; and
- (4) Provide for inspection.

(e) Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

Pursuant to California Code of Regulations §16402: the cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be \$1 for the first page of the payroll record and 25 cents for each page thereafter, plus \$10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

Pursuant to California Code of Regulations §16403 (Privacy Considerations):

(a) Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project.

Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed in subdivision (b) below;

(b) copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

(c) the public entity may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons in any craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program. Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed. A journey level worker must always be present at the job site where an apprentice is performing the work of his craft. Pre-apprentice trainees, trainees in non-apprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

1. Contractor Responsibility

The contractor shall furnish written evidence of the registration (i.e., Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid there under for the area of construction, prior to using any apprentices in the contract work.

Compliance with California Labor Code § 1777.5 require all public works contractors and subcontractors to do the following when apprenticeable crafts are employed on the project:

- a. Prior to commencing work on a contract for public works, every contractor shall submit Contract Award Information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The form DAS 140 can be used for this purpose.
- b. Employ apprentices, or request for the dispatch of apprentices from ALL apprenticeship training programs in the project's County area, for work on the public works project in a ratio to journeypersons as stipulated in the apprenticeship standards under which each apprenticeship committee operates, but in no case shall the ratio be less than one (1) apprentice to each five (5) journeypersons unless a lower/higher ratio is allowed via exemption for a particular craft;
- c. Contribute to the training fund in the amount identified in the prevailing wage rate publication for journeypersons and apprentices. Where the trust fund administrators cannot accept the contributions,

then payment shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142; and

d. It should be noted that a prior approval for a specified project does not confirm approval to train on any other project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

2. Duties of a Labor Compliance Program with Respect to Apprenticeship Standards

a. The Awarding Body's LCP staff shall:

1. Inform contractors and subcontractors bidding public works of the apprenticeship requirements defined in Labor Code 1777.5 and CCR 230, 230.1;
2. Send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and
3. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.

b. The Awarding Body's LCP staff shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including:

1. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,
2. That apprentices are paid no less than the prevailing apprentice rate,
3. That workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and
4. Requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

C. Audit of Certified Payroll Records

1. An Audit, as defined herein, shall be prepared by the Awarding Body's LCP staff whenever the LCP has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the LCP after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in

Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Awarding Body's LCP to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

2. After the LCP has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the LCP reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the LCP shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the LCP. For each instance in which a wage deficiency is resolved in accordance with this regulation, the LCP shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

SECTION 5: REPORTING OF WILLFUL VIOLATIONS TO THE LABOR COMMISSIONER

If an investigation reveals that a willful violation of the Labor Code has occurred, the LCP will make a written report to the Labor Commissioner which shall include:

1. A detailed report which shall accurately describe the nature of the alleged violation and a description of the evidence which supports said allegations;
2. An audit consisting of a comparison of payroll records to the best available information as to the actual hours worked and wages paid;
3. The classification of workers employed on the public works contract, and any other additional investigative information as may be required to clarify the audit. Reports will be submitted on all appropriate willful violations including intent to defraud and deliberate failure or refusal to comply with public works law. All reports will include a recommendation regarding the appropriateness of debarment. Principal areas of concern include, but are not limited to, the following:

A. Failure to Comply with Prevailing Wage Rate Requirements

Failure to comply with prevailing wage rate requirements (as set forth in the Labor Code and Awarding Body contracts) may be determined a willful violation whenever less than the stipulated basic hourly rate is paid to trades workers, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less

than stipulated. The facts related to such willful violations may result in a determination that the contractor intended to defraud its employees of their wages.

B. Falsification of Payroll Records, Misclassification of Work, and/or Failure to Accurately Report Hours of Work

Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly misclassifying the work performed by the worker; and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records. Such violations are deemed to be willful violations committed with the intent to defraud.

C. Failure to Submit Certified Payroll Records

The contractors and subcontractors shall have 10 days upon notification of the LCP representative in which to comply with the requirement for submittal of weekly payroll records that are complete and accurate. Failure to provide certified payroll records as prescribed, will result in the withholding of contract payments pursuant to labor code §1771.5 (b)(5) and §16435 (d) of Title 8 of the California Code of Regulations and as further described in Section 6 (B) of this manual.

D. Failure to Make Employer Payments

Employer payments are defined as the amounts stipulated for fringe benefits or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to make employer payments or provide fringe benefits and/or make trust fund contributions in a timely manner is equivalent to payment of less than the stipulated wage rate and shall be reported to the Labor Commissioner, upon completion of an investigation and audit.

E. Failure to Pay the Correct Apprentice Rates and/or Misclassification of Workers as Apprentices

Failure to pay the correct apprentice rate or classifying a worker as an apprentice when not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the Labor Commissioner, as a willful violation, upon completion of an investigation and audit.

F. Taking or Receiving Portions of Wages of Workmen or Working Subcontractors as Felony

Every person, who individually or as a representative of the Awarding Body, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

SECTION 6: ENFORCEMENT ACTION

A. Duty of the Labor Compliance Program

Pursuant to California Code of Regulations §16434, Duties of Labor Compliance Program:

(a) A Labor Compliance Program shall have a duty to the Director to enforce the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code and these regulations in a manner consistent with the practice of the Labor Commissioner. It is the practice of the Labor Commissioner to refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. It is also the practice of the Labor Commissioner to be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201-17270 of Title 8 of the California Code of Regulations.

(b) Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the Labor Compliance Program shall do all of the following:

- (1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name, address, and telephone number of the investigator assigned to the complaint;
- (2) Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;
- (3) Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Labor Compliance Program;
- (4) Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the Labor Compliance Program; and
- (5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

(c) The duties of a Labor Compliance Program with respect to apprenticeship standards are as follows:

- (1) Either the Awarding Body or the Labor Compliance Program acting on its behalf shall
 - (A) inform contractors and subcontractors bidding public works about apprenticeship requirements, (B) send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and (C) refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.
- (2) The Labor Compliance Program shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including:
 - (A) that any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity, (B) that apprentices are paid no less than the prevailing apprentice rate, (C) that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and (D) requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or

subcontractor's work on the public works contract.

(d) For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

(e) The Labor Commissioner may provide, sponsor, or endorse training on how to enforce prevailing wage requirements, including but not necessarily limited to the subjects of (1) ascertaining prevailing wage requirements and rates from the Division of Labor Statistics and Research, (2) monitoring and investigation under section 16432 above, (3) enforcement responsibilities under this section and sections 16435-16439 below, and (4) procedural requirements and responsibilities as an enforcing agency under Labor Code sections 1741-1743 and 1771.6 and sections 17201-17270 of Title 8 of the California Code of Regulations.

B. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

1. "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code § 1729. A release bond under Civil Code § 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.
2. "Contracts" except as otherwise provided by agreement, means only contracts under a single master contract, including a design build contract or contracts entered into as stages of a single project, which may be the subject of withholding pursuant to Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, 1771 and 1771.5;
 - a. "Delinquent payroll records" means those not submitted on the basis set forth in the Awarding Body's contract and or the LCP;
 - b. "Inadequate payroll records" is any one of the following:
 1. A record lacking the information required by Labor Code § 1776;
 2. A record which contains all of the required information but which is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;
 3. A record remaining uncorrected for one payroll period, after a notice has been given to the contractor or subcontractor of inaccuracies detected by audit or record review; provided, however, prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire certified weekly payroll in dollar value and do not affect more than half the persons listed as workers

employed on that certified weekly payroll, as defined in Labor Code § 1776 and § 16401 of Title 8 of the California Code of Regulations.

- c. The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code §1771.5 (b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the LCP has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; provided that a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the LCP provides notice that the subcontractor has cured the delinquency or deficiency.
- d. When contract payments are withheld under this section, the LCP shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the LCP has exceeded its authority under this section.
- e. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.
- f. In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(h) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(h) does require the prior approval of the Labor Commissioner under section 16436 of the California Code of Regulations.

C. Withholding Contract Payments When, After Investigation, It Is Established That Underpayment or Other Violation Has Occurred.

- 1. "Withhold" and "contracts" have the same meaning set forth in sections 16435(a) and 16435(b) of these regulations.
- 2. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.
- 3. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of the contractor or subcontractor:
 - a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Labor Code §1773 and determined to be the prevailing rate due workers in such crafts, classifications or trade in which they were employed.

- b. The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Labor Code §1773 .1 and determined to be part of the prevailing wage costs of contractors due for employment of workers in such craft, classification, or trade in which they were employed.
- c. Estimated amounts of “illegal taking of wages”; and
- d. Amounts of apprenticeship training contributions paid to neither the program sponsor’s training trust nor the California Apprenticeship Council.

The withholding of contract payments when, after investigation, it is established that underpayment or other violations have occurred requires the prior approval of the Labor Commissioner under sections 16436 and 16437 of the California Code of Regulations.

4. Provisions relating to the penalties under Labor Code Sections 1775, 1776, 1777.7, and 1813:

- a. Pursuant to Labor Code §1775, the contractor shall, as a penalty to the Awarding Body, forfeit not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages.
- b. Pursuant to Labor Code § 1776(h), the contractor shall, as a penalty to the Awarding Body, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. The assessment of penalties under this section does require the prior approval of the Labor Commissioner under §16436 of Title 8 of the California Code of Regulations.
- c. Pursuant to Labor Code § 1777.5, contractors and subcontractors are required to employ registered apprentices on public works projects. Each contractor and subcontractor shall keep an accurate payroll record relative to apprentices per §1776 of the Labor Code.
- d. In situations involving overtime, the contractor shall, as an additional penalty to the Awarding Body forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of §1813 of the Labor Code.

D. Forfeitures Requiring Approval by the Labor Commissioner

- 1. For the purposes of this section and §16437 below, “forfeitures” means the amount of wages, penalties and forfeitures assessed by the Labor Commissioner and proposed to be withheld pursuant to Labor Code §1771.6(a), and includes the following: (1) the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor; and (2) penalties assessed under Labor Code §1775, 1776 and 1813.
- 2. If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1,000.00, the forfeiture shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner’s receipt of copies of the following: (1) The Notice of Withholding of Contract Payments authorized by Labor Code §1771.6(a); (2) an audit as defined in §16432(e) of the California Code of Regulations, and (3) a brief narrative identifying the Bid Advertisement Date of the contract for public work

and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code §1775.

3. For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with §16437 of the California Code of Regulations.

E. Determination of Amount of Forfeiture by the Labor Commissioner (Title 8 CCR §16437)

1. Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request (included as an appendix to this manual) shall include a file or report to the Labor Commissioner which contains at least the information: specified in subparts (a) through (i) below.
 - a. Whether the public work has been accepted by the Awarding Body and whether a valid notice of completion has been filed, the dates if any when those occurred, and the amount of funds being held in retention by the Awarding Body;
 - b. Any other deadline which, if missed, would impede collection;
 - c. Evidence of violation in narrative form;
 - d. Evidence of violation obtained under §16432 of the California Code of Regulations and a copy of the audit prepared in accordance with §16432(e) setting forth the amount of unpaid wages and applicable penalties;
 - e. Evidence that before the forfeiture was sent to the Labor Commissioner (1) the contractor and subcontractor were given the opportunity to explain why there was no violation, or that any violation was caused by good faith mistake and promptly corrected when brought to the contractors or subcontractors attention, and (2) the contractor and subcontractor either did not do so or failed to convince the LCP of its position.
 - f. Where the LCP seeks not only wages but also a penalty as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractors or subcontractors attention, a statement should accompany the proposal for a forfeiture with a recommended penalty amount, pursuant to Labor Code § 1775(a);
 - g. Where the LCP seeks only wages or a penalty less than \$50 per day as part of the forfeiture because the contractor or subcontractor has successfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractors attention, the file should include the evidence as to the contractor or subcontractors knowledge of his or her obligation, including the programs communication to the contractor or subcontractor of the obligation in the bid invitation, at the Pre-Job Conference agenda and records, and any other notice given as part of the contracting process. Included with the file should be a statement similar to that described in subsection (f) above and recommended penalty amounts, pursuant to Labor Code § 1775(a);
 - h. The previous record of the contractor and subcontractor in meeting prevailing wage obligations; and

- i. Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under §16425 or 16426 of the California Code of Regulations or whether it has been granted extended approval under §16427 of the California Code of Regulations.
2. The file or report shall be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than 30 days before the final payment or, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code §1742
3. A copy of the recommended forfeiture and the file or report shall be served on the contractor and subcontractor at the same time as it is sent to the Labor Commissioner. The LCP may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor during an audit, investigation, or meeting if those documents are clearly referenced in the file or report.
4. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to the wages and penalties due.
5. The Labor Commissioner's determination of the forfeiture is effective on one of the two following dates:
 - a. For all programs other than those having extended authority under §16427 of the California Code of Regulations, on the date the Labor Commissioner serves by first class mail, on the Awarding Body's LCP, on the contractor and on the subcontractor, if any, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of the forfeiture approved. Service on the contractor and subcontractor is effective if made on the last address supplied by the contractor or subcontractor in the record.
 - b. For programs with extended authority under §16427 of the California Code of regulations, approval is effective 20 days after the requested forfeitures are served on the Labor Commissioner, unless the Labor Commissioner services a notice on the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of the notice of further review.

F. Notice of Withholding

1. As a matter of enforcing this chapter in accordance with Section 1726 or 1771.5, The Awarding Body shall provide Notice of the Withholding of Contract Payments (included as an appendix to this manual) to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the Notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The Notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The Awarding Body shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the Awarding Body.

2. The withholding of contract payments in accordance with Section 1726 or 1771.5 shall be reviewable under Section 1742 in the same manner as if the Notice of the Withholding was a civil penalty order of the Labor Commissioner under this chapter. If review is requested, the Labor Commissioner may intervene to represent the awarding body.
3. Pending a final order, or the expiration of the time period for seeking review of the Notice of Withholding, the Awarding Body shall not disburse any contract payments withheld.
4. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.
5. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the Awarding Body that has enforced this chapter pursuant to Section 1771.5.

G. Deposits of Penalties and Forfeitures Withheld

1. Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture, or underpayment of wages and the matter has been resolved without Litigation by or against the Labor Commissioner, the Awarding Body shall deposit penalties and forfeitures into its general fund or fund of its choice.
2. Where collection of fines, penalties, or forfeitures results from Administrative proceedings or court action to which the Labor Commissioner and the Awarding Body are both parties, the fines, penalties, or forfeitures shall be divided between the General Funds of the State and the Awarding Body, as the court so deems.
3. All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Awarding Body's Labor Compliance Program is not a party, shall be deposited in the general fund of the State.
4. All wages and benefits which belong to an employee and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of court action pursuant to Labor Code § 1775, and which have not been paid to the worker or irrevocably committed on the worker's behalf to a benefits fund, shall be deposited with the Labor Commissioner, who will deal with such wages and benefits in accordance with Labor Code §96.7.

H. Debarment Policy

It is the policy of the LCP that the Public Works Prevailing Wage requirements set forth in the California Labor Code, Section 1720-1861, be strictly enforced. In furtherance thereof, construction contractors and subcontractors found to be repeat violators of the California Labor Code shall be referred to the Labor Commissioner for debarment from bidding on or otherwise being awarded any public work contract, within the state of California, for the performance of construction and/or maintenance services for the period not to exceed three (3) years in duration. The duration of the debarment period shall depend upon the nature and severity of the labor code violations and any mitigating and/or aggravating factors, which may be present at the hearing conducted by the Labor Commissioner for such purpose.

SECTION 7: REQUEST FOR REVIEW OF A LABOR COMPLIANCE PROGRAM ENFORCEMENT ACTION / SETTLEMENT AUTHORITY

1. After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice 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. Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter. (b) Notwithstanding subdivision (a), 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.
2. A contractor or subcontractor may request a settlement meeting pursuant to Labor Code §1742.1(b) and may request review of a LCP enforcement action in accordance with Labor Code §1771.6(b) and 1742 and the regulations found at §17201-17270 of Title 8 of the California Code of Regulations. The LCP shall have the rights and responsibilities of the enforcing agency (as defined in § 17202(f) of Title 8 of the California Code of Regulations, in responding to such a Request For Review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing officer, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing procedures, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.
3. If a contractor or a subcontractor seeks review of a LCP enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practices of the Labor Commissioner, or both.
4. Except in cases where the Labor Commissioner has intervened pursuant to section (B) above, the LCP shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payment issued pursuant to Labor Code §1771.6 and any review proceeding under Labor Code §1742, without any further need for approval by the Labor Commissioner. Whenever a LCP settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code §1742, the LCP shall document the reasons for the settlement or request for dismissal and shall make that document available to the Labor Commissioner upon request.
5. For each public work project subject to a LCP's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C

following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

6. The Labor Commissioner may provide, sponsor, or endorse training on how to enforce prevailing wage requirements, including but not necessarily limited to the subjects of (1) ascertaining prevailing wage requirements and rates from the Division of Labor Statistics and Research, (2) monitoring and investigation under section 16432 above, (3) enforcement responsibilities under this section and sections 16435-16439 below, and (4) procedural requirements and responsibilities as an enforcing agency under Labor Code sections 1741-1743 and 1771.6 and sections 17201-17270 of Title 8 of the California Code of Regulations.

SECTION 8: PRIORITY DISTRIBUTION OF FORFEITED SUMS

A. Withholding of Forfeited Sums

1. Before making payments to the contractor of money due under a contract for public work, the Awarding Body shall withhold and retain there from all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner. The amounts required to satisfy a 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.

B. Disposition of Forfeited Sums

1. The prevailing wage recovery process of this LCP is in accordance with Labor Code § 1775, which provides that out of any funds withheld, recovered, or both, there shall first be paid the amount due each worker notwithstanding the filing of any Stop Notice by any person pursuant to Civil Code § 3179, et seq. Therefore, all workers employed on a public works project who are paid less than the prevailing wage rate shall have priority over all Stop Notices filed against the contractor.
2. In the event that there are insufficient funds available in the contractor's account to pay the total amounts due, the unpaid prevailing wages shall have priority and must, therefore, be paid first, in accordance with Labor Code § 1775. Furthermore, if insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all said underpaid workers; and all penalties shall be deposited in the General Fund of the Awarding Body.

SECTION 9: ANNUAL REPORTS

Per section 16431 of the California Code of Regulations, the LCP shall submit to the Director of the DIR an annual report on the operation of its LCP no later than August 31 of each year. The reporting period will cover a 12 month period from July 1 of the preceding calendar year and will end on June 30 of the year that the

annual report is due. The Awarding Body's annual report shall be made on form LCP-AR1, which is included herein under Attachment G.

Information in the annual report shall be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the LCP. An annual report shall also include such additional information as the LCP may be required to report as a condition of its approval.

Pursuant to California Code of Regulations §16430, the Awarding Body shall file a Statement of Economic Interest (FPPC Form 700) along with its Annual Report; specifically:

16430(a) An Awarding Body that operates either its own labor compliance program or that contracts with a third party to operate all or part of its labor compliance program shall determine and designate those employees and consultants of the program who participate in making governmental decisions for the Awarding Body within the meaning of Title 2, California Code of Regulations, sections 18700 - 18702.4. Those designated employees and consultants shall be required to file Statements of Economic Interest (FPPC Form 700) and to comply with other applicable requirements of the Political Reform Act (commencing with Section 87100 of the Government Code) in connection with work performed on behalf of the Awarding Body.

16430(b): Designated employees and consultants who operate or are employed by a third party labor compliance program shall file their Statements of Economic Interest (FPPC Form 700) with the filing officer of each Awarding Body with which the third party program contracts, unless the Department of Industrial Relations or the Fair Political Practices Commission specifies a different or alternative filing location.

SECTION 10: OUTREACH ACTIVITIES

To ensure the successful implementation of this Labor Compliance Program, there shall be several outreach activities initiated and maintained. The LCP Administrator shall be responsible for communication and outreach activities relative to public information on the Labor Compliance Program:

1. Regular presentations to contractors at all job walk meetings (pre-bid conferences) and job start meetings (pre-job conferences);
2. Ongoing communication via correspondence and with workers at job sites when review of the CPR's reveals the possibility of prevailing wage violations.
3. Periodic meetings with contractor and labor organizations, prime contractors and subcontractors or work preservation volunteers interested in public works contracting.

ATTACHMENTS

This section contains the attachments applicable to the Awarding Body's Labor Compliance Program

**ATTACHMENT A - CHECKLIST OF LABOR LAW REQUIREMENTS
FOR REVIEW AT PER-JOB CONFERENCE**
(In accordance with CCR § 16421)

The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. Payment of Prevailing Wage Rates

The award of a public works contract requires that all workers employed on the project be paid not less than the specified general prevailing wage rates by the contractor and its subcontractors, unless subject to exemption per Labor Code § 1771.5. Should a contract exceed exemption amounts, the contractor and its subcontractors are required to pay not less than the specified general prevailing wage rates.

The contractor is responsible for obtaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes, which may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view.

2. Apprentices

It is the duty of the contractor and subcontractor to employ registered apprentices on public works projects per Labor Code § 1777.5.

3. Penalties

Penalties, included forfeitures, and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages (for nonexempt projects), failure to maintain and submit accurate certified payroll records upon request, failure to employ apprentices, and for failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code §§ 1775, 1776, 1777.7, and 1813.

4. Certified Payroll Records

Per Labor Code § 1776, contractors and subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or to his or her authorized representative on request.

Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls to the Labor Compliance office on a weekly basis. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week and the final payroll for each contractor and subcontractor shall be identified in bold markings as "Final Project Payroll".

5. Nondiscrimination in Employment

Prohibitions against employment discrimination are contained in Labor Code Sections 1735 and 1777.6; the Government Code; the Public Contracts Code; and Title VII of the Civil Rights Act of 1964, as amended. All contractors and subcontractors are required to implement equal employment opportunity practices for women and ethnic groups as delineated below:

a. Equal Employment Poster

The equal employment poster shall be posted at the job site in a conspicuous place visible to employees and employment applicants for the duration of the project.

b. The contractor and each subcontractor shall maintain accurate records of employment information as required by the Monthly Employment Utilization Report. This report shall specify the ethnicity and gender for each employee in a craft, trade, or classification.

c. Further, efforts should be made to employ apprentices on public works contracts per Labor Code § 1777.5 efforts to employ apprentices should also be documented.

6. Kickback Prohibited

Per Labor Code § 1778, contractors and subcontractors are prohibited from accepting, taking wages illegally, or extracting "kickback" from employee wages;

7. Acceptance of Fees Prohibited

Contractors and subcontractors are prohibited from exacting any type of fee for registering individuals for public work (Labor Code § 1779); or for filing work orders on public works contracts (Labor Code § 1780).

8. Listing of Subcontractors

Contractors are required to list all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total effort (Government Code § 4100, et seq.);

9. Proper Licensing

No contractor or subcontractor may work on a public works project unless registered with DIR. Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code § 1021 and Business and Professions Code § 7000, et seq. under California Contractors License Law);

10. Unfair Competition Prohibited

Contractors and subcontractors are prohibited from engaging in unfair competition (Business and Professions Code §§ 17200-17208);

11. Workers' Compensation Insurance

All contractors and subcontractors are required to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of Labor Code § 3700 (Labor Code § 1861);

12. OSHA

Contractors and subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project; and

13. Undocumented Workers

The Federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.

14. Itemized Wage Statements

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement as per §226 of the state labor code.

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____ (contractor)

For the Contractor:

For the Awarding Body's Labor Compliance Administrator

Signature

Signature

Date

Date

ATTACHMENT B – COMPLIANCE MONITORING & AUDIT RECORD WORKSHEETS

Audit Record Worksheets [8 Cal. Code Reg. §16432]

- *Public Works Investigation Worksheet*
- *Public Works Audit Worksheet*
- *Prevailing Wage Determination Summary*
- *Suggested Single Project Labor Compliance Review and Enforcement Report Form [Appendix C following 8 CCR §16434]*

PUBLIC WORKS INVESTIGATION WORKSHEET

Classification Code

TOTALS

PUBLIC WORKS AUDIT WORKSHEET

The following entries represent the amounts relied upon for calculating Labor Code 1775 and 1813 penalties.

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	HOLIDAY / TRAVEL & SUNDAY SUBSISTENCE	Other hourly Requirements
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

Suggested Single Project Labor Compliance Review and Enforcement Report Form

[Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program: _____

Bid Advertisement Date: _____

Acceptance Date: _____

Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Prejob Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain Manner of Notification for each project work site.)

4. Certified Payroll Record Review

a. CPRs Received From:

Contractor/Subcontractor

For weeks ending ("w/e") through w/e

_____	_____
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPRs with Pay- checks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPRs

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund</u>	<u>Expla- nation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	<u>Approved/Modified/Denied</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742


<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

ATTACHMENT C - REQUEST FOR APPROVAL OF FORFEITURE

1. AWARDING BODY / THIRD PARTY LCP:

 <p>City of Culver City – Public Works Department c/o Sean Singletary, PE - Sr. Civil Engineer 9770 Culver Blvd. Culver City, CA 90232 Phone: (310) 253-6457 Email: sean.singletary@culvercity.org</p>	Date of Request:
	LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):

2. PROJECT INFORMATION:

Project Name:		Contract Number:
Project Location:		
Bid Advertisement Dates:	Estimated Date Project is to be completed:	
Acceptance Date of Project by the Awarding Body:	Notice of Completion/Date Recorded with County Recorder:	
Other Relevant Deadline (specify):	Amount being held in Retention:	

3. CONTRACTOR INFORMATION:

Name and address of Affected Contractor:	Name and address of Affected Subcontractor:
General Description of Scope of Work of the Entire Project:	
General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract):	

4. **LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:**

Total Amount of Request for Notice of Withholding of Contract Payments:			
Wages Due:	Training Funds Due:	Total Penalties Due:	Potential Liquidated Damages [Wages + Training Funds]:
LC 1775 Penalties Due:	LC 1813 Penalties Due:	LC 1776 Penalties Due:	Other:

[Provide narrative summaries covering the following]:

A. Statement of Issues.

B. Investigative Report (detailed narrative including but not limited to how the investigation was conducted including worker declarations, reviewing certified payroll records, verification of employer payment contributions, etc.).

C. Audit Report (detailed explanation of how audit was completed addressing each of the issues above).

D. Affected contractor and subcontractor information (how affected contractor and subcontractor were informed of potential violations; summary of their response with respect to violations and penalty issues; and any other information considered in determining recommended penalties).

E. Recommended penalties under Labor Code Section 1775(a) and basis for recommendation, including how factors in subsection (a)(2) of Section 1775 were applied to arrive at the recommended amount(s).


ATTACHMENTS

1. Audit Summary (Appendix B)
2. 1st Bid Advertisement Publication
3. Notice of Completion
4. Scope of Work
5. Complaint form(s) and Declarations, if any

Send the Request and all Attachments to:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
Attn.: Regional Manager
300 Ocean Gate Blvd., No. 850
Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

<p>LABOR COMPLIANCE PROGRAM City of Culver City – Public Works Department Review Office - Notice of Withholding of Contract Payments c/o Sean Singletary, PE - Sr. Civil Engineer 9770 Culver Blvd., Culver City, CA 90232 Phone: (310) 253-6457 Fax: (310) 253-5830 Email: sean.singletary@culvercity.org</p>	
<p>Date:</p>	<p>In Reply Refer to Case No.:</p>

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

Subcontractor

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

- (a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) the Enforcing Agency at its own expense forwards copies of all such evidence to the affected contractor or subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.@

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

City of Culver City – Public Works
c/o Sean Singletary, PE - Sr. Civil Engineer
9770 Culver Blvd., Culver City, CA 90232
Phone: (310) 253-6457
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org

Request to Review Evidence

To: _____

From:

City of Culver City – Public Works
c/o Sean Singletary, PE - Sr. Civil Engineer
9770 Culver Blvd., Culver City, CA 90232
Phone: (310) 253-6457
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org


Regarding Notice of Withholding of Contract Payments Dated _____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____

Fax No.: _____

Labor Compliance Program City of Culver City – Public Works c/o Sean Singletary, PE - Sr. Civil Engineer 9770 Culver Blvd., Culver City, CA 90232 Phone: (310) 253-6457 Fax: (310) 253-5830 Email: sean.singletary@culvercity.org	
Date:	In Reply Refer to Case No.:

ATTACHMENT D - Notice of Withholding of Contract Payments

Awarding Body	Work Performed in County of
Project Name	Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for _____ (Labor Compliance Program) 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 sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

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

The Labor Compliance Program has determined that the total amount of wages due is: \$_____

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

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1776 is: \$_____

LABOR COMPLIANCE PROGRAM

By:_____

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

City of Culver City - Labor Compliance Program
Review Office-Notice of Withholding of Contract Payments
c/o Sean Singletary, PE - Sr. Civil Engineer
9770 Culver Blvd., Culver City, CA 90232
Phone: (310) 253-6457
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice 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 Compliance Program at the hearing within 20 days of the Labor Compliance Program'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 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. 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. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, 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 Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to the contact named below at the following address:

City of Culver City - Labor Compliance Program
c/o Sean Singletary, PE - Sr. Civil Engineer
9770 Culver Blvd., Culver City, CA 90232
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice 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.


The Amount of Liquidated Damages Available Under this Notice is \$_____.

Distribution:

Prime Contractor
Subcontractor
Surety(s) on Bond

Attach:

Audit Summary
Proof of Service

Labor Compliance Program City of Culver City – Public Works c/o Sean Singletary, PE - Sr. Civil Engineer 9770 Culver Blvd., Culver City, CA 90232 Phone: (310) 253-6457 Fax: (310) 253-5830 Email: sean.singletary@culvercity.org	
Date:	Case or Contract No.:

**ATTACHMENT E - NOTICE OF TEMPORARY WITHHOLDING OF CONTRACT PAYMENTS DUE TO
 DELINQUENT OR INADEQUATE PAYROLL RECORDS
 (8 CCR §16435)**

Awarding Body:	Work performed in County of:
Project Name and Number (if any):	
Prime Contractor:	
Subcontractor:	

Pursuant to Labor Code §1771.5(b)(5) and 8 CCR §16435, contract payments are being withheld due to delinquent or inadequate payroll records.

Contractor or subcontractor whose payroll records are delinquent or inadequate:

☐ The following payroll records are delinquent (specify weeks and due dates):

☐ The following payroll records are inadequate (specify weeks and ways in which records are deemed inadequate under 8 CCR §16435(d)):

Estimated amount of contract payments due to contractor or subcontractor that are being withheld pursuant to this Notice:

See page 2 for additional information, including appeal rights.

 Labor Compliance Officer

Prime Contractor Obligations: If contract payments are being withheld due to the delinquency or inadequacy of your subcontractor's payroll records, you are required to cease all payments to that subcontractor until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

Notice of Right to Obtain Review – Expedited Hearing

An affected contractor or subcontractor may request review an expedited hearing to review this Notice of Withholding of Contract Payments under Labor Code §1742. *The only issue in any such review proceeding is whether the specified payroll records are in fact delinquent or inadequate within the meaning of 8 CCR §16435 or whether the Labor Compliance Program has exceeded its authority under 8 CCR §16435.* **To obtain an expedited hearing, a written request must be transmitted to the both the Labor Compliance Program and to the Lead Hearing Officer for the Director of the Department of Industrial Relations, as follows:**

City of Culver City – Public Works
c/o Sean Singletary, PE - Sr. Civil Engineer
9770 Culver Blvd., Culver City, CA 90232
Phone: (310) 253-6457
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org

Office of the Director – Legal Unit
Attention: Lead Hearing Officer
Expedited Hearing Request
Fax to: (415) 703-4277

The request for expedited hearing should specify the basis for challenging this Notice and include a copy of this Notice as an attachment. The request should also identify and provide contact information for the person who will represent the contractor or subcontractor at the hearing.

Important Additional Information: This is a Notice of Temporary Withholding of Contract Payments for Delinquent or Inadequate Payroll Records *only*. This is *not* a determination of liability for wages or penalties under Labor Code §§1775 and 1776 or any other statute. *Contract payments cannot continue to be withheld pursuant to this notice, once the required records have been produced.* However, the contractor and subcontractor may still be subject to the assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that the contractor or subcontractor violated the public works requirements of the Labor Code.

This Notice only addresses rights and responsibilities under state law. Awarding bodies, labor compliance programs, and contractors may have other rights or responsibilities under federal or local law, where applicable, and may also have additional rights or remedies under the public works contract.

Enclosure – text of 8 CCR §16435

§16435. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate.

(a) "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, including a Design-Build contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1) A record lacking any of the information required by Labor Code Section 1776;

(2) A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;

(3) A record remaining uncorrected for one payroll period after the Labor Compliance Program has given the contractor or subcontractor notice of inaccuracies detected by audit or record review. However, prompt correction will stop any duty to withhold if such inaccuracies do not amount to one (1) percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and section 16401 of Title 8 of the California Code of Regulations.


(e) The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

(f) When contract payments are withheld under this section, the Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following:

(1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

(g) No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

(h) In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(h) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(h) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

LABOR COMPLIANCE PROGRAM City of Culver City – Public Works c/o Sean Singletary, PE - Sr. Civil Engineer 9770 Culver Blvd., Culver City, CA 90232 Phone: (310) 253-6457 Fax: (310) 253-5830 Email: sean.singletary@culvercity.org	
Date:	In Reply Refer to Case No.:

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, postmarked _____, and received by this office on _____.

Also enclosed please find the following:

- _____ Copy of Notice of Withholding of Contract Payments
- _____ Copy of Audit Summary


LABOR COMPLIANCE PROGRAM
City of Culver City

By: _____

cc: Prime Contractor
Subcontractor
Bonding Company

Please be advised that the Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are **not** governed by Chapter 5 of the Government Code, commencing with section 11500.

ATTACHMENT F – CERTIFID PAYROLL RECORD (CPR) TEMPLATE



California
Department of
Industrial Relations

PUBLIC WORKS PAYROLL REPORTING FORM

Page of

NAME OF CONTRACTOR: OR SUBCONTRACTOR:		CONTRACTOR'S LICENSE NO.: SPECIALTY LICENSE NO.:		ADDRESS:																			
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITH- HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	FOR WEEK ENDING:				(6) HOURLY RATE OF PAY	(5) TOTAL HOURS	(7) GROSS AMOUNT EARNED	SELF-INSURED CERTIFICATE NO.: WORKERS' COMPENSATION POLICY NO.:								PROJECT OR CONTRACT NO.: PROJECT AND LOCATION:				(9) CHECK NO.	
			(4) DAY							(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS													
			DATE							FED. TAX FICA (SOC. SEC.) STATE TAX TRAINING FUND ADMIN OTHER* PENSION													
			HOURS WORKED EACH DAY							TRAV/ SUBS. SAVINGS OTHER* PENSION													

Form A-1-11 (New 2-80)

*OTHER – Any other deductions, contributions and/or payments whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet(s) if necessary

CERTIFICATION MUST be completed
(See reverse side)

Date _____
 I, _____ (Name of Signatory Party) _____ (Title)
 do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____
 (Contractor or Subcontractor)
 _____; that during the payroll period commencing on the _____
 (Building or Work)
 _____ day of _____, and ending the _____ day of _____
 all persons employed on said project have been paid the full weekly wages earned, that no rebates have
 been or will be made either directly or indirectly to or on behalf of said _____

_____ from the full
 (Contractor or Subcontractor)
 weekly wages earned by any person and that no deductions have been made either directly or indirectly
 from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 944,
 63 Stat. 108, 72 Stat. 967; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
 correct and complete; that the wage rates for laborers or mechanics contained herein are not less than the
 applicable wage rates contained in any wage determination incorporated into the contract; that the
 classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide
 apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of
 Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a
 State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:
 (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS
☐ — In addition to the basic hourly wage rates paid to each laborer or mechanic listed in
 the above referenced payroll, payments of fringe benefits as listed in the contract
 have been or will be made to appropriate programs for the benefit of such
 employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ — Each laborer or mechanic listed in the above referenced payroll has been paid,
 as indicated on the payroll, an amount not less than the sum of the applicable
 basic hourly wage rate plus the amount of the required fringe benefits as listed
 in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE		SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.		

ATTACHMENT G – CAC 2 TRAINING FUND CONTRIBUTION FORM

STATE OF CALIFORNIA

CALIFORNIA APPRENTICESHIP COUNCIL

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

Tel: (415) 703-4920

Fax: (415) 703-5477

EDMUND G. BROWN Jr., Governor

www.dir.ca.gov



ADDRESS REPLY TO:
California Apprenticeship Council
P. O. Box 420603
San Francisco, CA 94142-0603

INSTRUCTIONS ON HOW TO PAY YOUR TRAINING FUND CONTRIBUTIONS

All you have to do is:

1. Get rid of all your old blank CAC2 forms saved on your computer!
2. Go to this web link: <https://www.dir.ca.gov/DAS/tf/cac2.asp> and ADD it to your favorites.
3. Fill out the NEW EASY WEB APP with the necessary information.
4. Please use your Contractor's License Number without the alpha digit. This number can also be used to look up your contributions on our website at:
<http://www.dir.ca.gov/CAC/trainingfund/tfsearch.html>
5. Select the County and Occupation, then fill in the hours and rate and when you hit "tab" the amount is calculated for you!
6. Once you are done filling out the new form and verified your information, print out your invoice. Almost done!!
7. Very Important: Mail both the invoice and check payable to the
CALIFORNIA APPRENTICESHIP COUNCIL to:

NEW REMIT ADDRESS: (Training fund contributions only)

DIR
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838

Important Note: This new form will expedite the processing of your training fund contribution which will be posted within 24 hours or one business day after receipt of payment!!

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/das/PublicWorksForms.htm> for information about programs in your area and trade. You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: (NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S))	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations


Check One Of The Boxes Below

1. ☐ We are already approved to train apprentices by the _____
Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee
2. ☐ We will comply with the standards of _____
Apprenticeship Committee for the duration of this job only. Enter name of the Committee
3. ☐ We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____ Date _____
Typed Name _____
Title _____

State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS


DAS 140 (REV. 1/04)

	REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM <u>DO NOT SEND THIS FORM TO DAS</u>	PRINT CLEAR
<p>You may use this form to request dispatch of an apprentice from the Apprenticeship Committee in the craft or trade in the area of the public work. Go to: http://www.dir.ca.gov/DAS/PublicWorksForms.htm for information about programs in your area and trade. You may also consult your local Division Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards. <u>Except for projects with less than 40 hours of journeyman work, you must request and employ apprentices in no less than 8 hour increments.</u></p>		
Date: _____		Contractor Requesting Dispatch:
To Applicable Apprenticeship Committee:		Name: _____
Name: _____		Address: _____
Address: _____		License No. _____
Tel. No. _____ Fax No. _____		Tel. No. _____ Fax No. _____
Project Information:		
Contract No. _____		
Name of the Project: _____		
Address: _____		
Dispatch Request Information:		
Number of Apprentice(s) Needed: _____ Craft or Trade: _____		
Date Apprentice(s) to Report: _____ (72 hrs. notice required) Time to Report: _____		
Name of Person to Report to: _____		
Address to Report to: _____		
<p><i>You may use this form to make your written request for the dispatch of an apprentice. Requests for dispatch must be in writing and submitted at least 72 hours in advance (excluding weekends and holidays) via either first class mail, fax or email. Proof of submission may be required. Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or visit http://www.dir.ca.gov/DAS/DASApprenticesOnPublicWorksSummaryOfRequirements.htm</i></p> <p>DAS 142 (Revised 12/11)</p>		

**ATTACHMENT J – FRINGE BENEFIT STATEMENT (STATEMENT OF EMPLOYER PAYMENTS)
PW26 TEMPLATE FORM**

Statement of Employer Payments

Date:		In Reply, Refer to Case No:	
Prime:			
Subcontractor:			
PROJECT NAME:			
PROJECT CONTRACT NO.:		County/location:	



HEALTH AND WELFARE

NAME OF PLAN	Address, City and Zip
ADMINISTRATOR	Address, City and Zip
CLASSIFICATION(S) USED	CONTRIBUTION PER CLASSIFICATION PER HOUR
CONTRIBUTIONS: WEEKLY MONTHLY QUARTERLY ANNUALLY	

PENSION

NAME OF PLAN	Address, City and Zip
ADMINISTRATOR	Address, City and Zip
CLASSIFICATION(S) USED	CONTRIBUTION PER CLASSIFICATION PER HOUR
CONTRIBUTIONS: WEEKLY MONTHLY QUARTERLY ANNUALLY	

VACATION/HOLIDAY

NAME OF PLAN	Address, City and Zip
ADMINISTRATOR	Address, City and Zip
CLASSIFICATION(S) USED	CONTRIBUTION PER CLASSIFICATION PER HOUR
CONTRIBUTIONS: WEEKLY MONTHLY QUARTERLY ANNUALLY	

TRAINING

NAME OF PLAN	Address, City and Zip
ADMINISTRATOR	Address, City and Zip
CLASSIFICATION(S) USED	CONTRIBUTION PER CLASSIFICATION PER HOUR
CONTRIBUTIONS: WEEKLY MONTHLY QUARTERLY ANNUALLY	

IF YOU USE OTHER PLANS NOT LISTED ABOVE, YOU MAY USE THE BACK OF THIS FORM TO PROVIDE THIS ADDITIONAL INFORMATION

PW 26

ATTACHMENT K – PUBLIC WORKS CONTRACT AWARD FORM 100

STATE OF CALIFORNIA – DEPARTMENT OF INDUSTRIAL RELATIONS

TO: California Department of Industrial Relations
Division of Apprenticeship Standards
P.O. Box 420603
San Francisco, CA 94142

AWARDING AGENCY ID NUMBER

If you do not have an ID number please contact DAS

FROM:

EXTRACT OF PUBLIC WORKS CONTRACT AWARD

A CONTRACT TO PERFORM PUBLIC WORKS UNDER LABOR CODE SECTION 1777.5 HAS BEEN AWARDED TO:

1. NAME OF GENERAL CONTRACTOR			2. CONTRACTOR'S LICENSE NO		
3. MAILING ADDRESS (STREET NUMBER OR P.O. BOX)			4. CITY		
			5. ZIP CODE	6. TELEPHONE NUMBER	
7. GENERAL CONTRACTOR'S CONTACT EMAIL ADDRESS			8. ADDRESS/LOCATION OF PUBLIC WORKS SITE (INCLUDE CITY AND COUNTY):		
9. NAME OF PROJECT			8a. County		
10. CONTRACT NUMBER		11. PROJECT NUMBER		12. DOLLAR AMOUNT OF CONTRACT AWARD	
13. FIRST ADVERTISED BID DATE MONTH DAY YEAR		14. CONTRACT AWARD DATE MONTH DAY YEAR		12a. ESTIMATED TOTAL PROJECT COSTS, IF DIFFERENT FROM ITEM 12 (see instructions).	
15. WHICH STATUTE, IF ANY, APPLIES TO THIS PROJECT?					
16. STATE CONSTRUCTION BONDS If YES, List the Sources and Dollar Amount of Bond Proceeds: SOURCES			17. WILL YOU OPERATE A DIR-APPROVED LABOR COMPLIANCE PROGRAM (LCP) FOR THIS PROJECT?		
			18. IS THERE A PROJECT LABOR AGREEMENT (PLA) ASSOCIATED WITH THIS PROJECT? If yes, please email a copy to cmuola@dir.ca.gov		
19. STARTING DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)			20. COMPLETION DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)		
21. BRIEF DESCRIPTION OF WORK TO BE PERFORMED			22. NEW CONSTRUCTION REMODELING ALTERATION, DEMOLITION, REPAIR OR MAINTENANCE		
23. CLASSIFICATION OR TYPE OF WORKER (CARPENTER, PLUMBER, ETC.) THAT WILL BE EMPLOYED BY THE CONTRACTOR(S)					
Please list Sub-contractors and their worker classifications on page 2					
24. Is language included in the Contract Award to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code? YES NO					
25. SIGNATURE		26. TITLE		27. DATE	
28. PRINTED OR TYPED NAME		29. E-MAIL ADDRESS		30. TELEPHONE NUMBERS	
If different from above, name, title, and contact information of person responsible for carrying out Awarding Body's LCP or CMU responsibilities.					
31. NAME		32. TITLE		33. E-MAIL ADDRESS	
				34. TELEPHONE NUMBER	

Duplication of this form is permissible

DIR-PWC 100 (rev. 10/11) successor to the DAS 13 form

EXTRACT OF PUBLIC WORKS CONTRACT AWARD (Continued)

Listing of Sub Contractors

[illegible]

Provided for Reference Only.
Please use the Web Application
to submit your Contract Award info
<https://www.dir.ca.gov/PWC100>

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program for some but not all projects

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :					
2. LCP I.D. Number (assigned by DIR):		3. Date of Initial Approval:			
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):					
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period?					
Please check one:		<input type="checkbox"/> Yes	If Yes, proceed to item 6 on the next page		
		<input type="checkbox"/> No	If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 455 Golden Gate Avenue, 10th Floor, San Francisco CA 94102		
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)					
SUBMITTED BY:					
Signature _____			Name and Title _____		Date _____

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary).

A. List projects handled by LCP within the past 12 months.

Project Name	Bid Advertisement Date	Prime Contractor	Contract Amount
Total			

B. Summary of all wages and penalties assessed and/or recovered.

Project Name	Affected Contractor (who directly employed the worker)	Amount Assessed	Amount Recovered	Approval of Forfeiture Requested from Labor Commissioner?	Description of Violation
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
Total					

LCP-ARI

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

Project Name	Amount Assessed			Amount Recovered		
	LC § 1776(g)	LC § 1775	LC § 1813	LC § 1776(g)	LC § 1775	LC § 1813
Total						

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____



LABOR COMPLIANCE PROGRAM APPLICATION TO DIR

Appendix 2

“Council Resolution Approving LCP”

CITY OF CULVER CITY

Sean Singletary, P.E., Public Works/ Senior Civil Engineer
9770 Culver Blvd.
Culver City, CA 90232
Phone: (310) 253-6457
Fax: (310) 253-5830
Email: sean.singletary@culvercity.org

NOTE TO DIR: The attached Council Resolution No 2020-R102 is in process of being ratified at the 6/14/2021 Council Meeting. The new resolution will remove reference to "Michael Baker International" as the LCP developer.

Upon approval by Council the City of Culver City will immediately forward the new resolution to DIR for inclusion into this application for approval.

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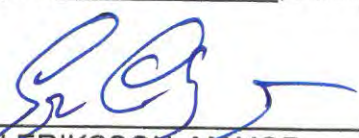
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3. This Resolution shall take effect immediately upon its adoption.

APPROVED and ADOPTED this 9th day of November, 2020.



GÖRAN ERIKSSON, MAYOR
City of Culver City, California

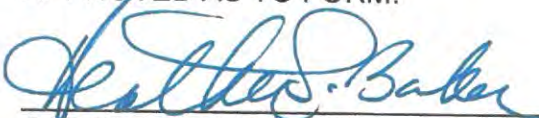
ATTEST:



JEREMY GREEN
City Clerk

A20-00343

APPROVED AS TO FORM:



for CAROL A. SCHWAB
City Attorney