

RESOLUTION No. 2011-1942

**A RESOLUTION OF THE BOARD OF DIRECTORS ADOPTING THE LAS GALLINAS VALLEY
SANITARY DISTRICT'S COMPLIANCE PLAN FOR THE PURPOSE OF IMPLEMENTING
LABOR COMPLIANCE PROVISIONS ON CERTAIN PUBLIC WORKS CONTRACTS**

LAS GALLINAS VALLEY SANITARY DISTRICT

WHEREAS, California Labor Code Section 1770, et seq., requires contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research and;

WHEREAS, California Labor Code Section 1776 requires contractors to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request and,

WHEREAS, California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects and,

WHEREAS, The program is applicable to all public works projects undertaken by the District which require a Labor Compliance Program pursuant to Labor Code Section 1771.5 and 1771.8 as well as many other statutory provisions which require the implementation of a Labor Compliance Program and,

WHEREAS, the Las Gallinas Valley Sanitary District is required to adopt a Labor Compliance Program for the submission and approval from the California Department of Industrial Relations and;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors for the Las Gallinas Valley Sanitary District, having reviewed the item hereby adopts the Las Gallinas Valley Sanitary District's Labor Compliance Plan and directs District staff to proceed with obtaining approval of said Program from the Department of Industrial Relations;

* * * * *

I hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly passed and adopted by the Sanitary Board of the Las Gallinas Valley Sanitary District, Marin County, California, at a meeting thereof held on December 8, 2011, by the following vote of the members thereof:

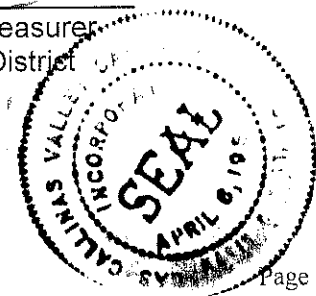
AYES, and in favor thereof, Members: *Clark, Greenfield, Loder, Murray, Schriebman*
NOES, Members:
ABSENT, Members:
ABSTAIN, Members:

Susan McGuire

Susan M. McGuire, District Treasurer
Las Gallinas Valley Sanitary District

APPROVED:

Judy Schriebman
Judy Schriebman, President Board of Directors



**Suggested format of
Application to Director for Approval of Awarding Body's Labor Compliance Program
(8 CCR §16425)**

Awarding Body Seeking Approval:

**Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929**

Awarding Body's Contact Person:

**Susan McGuire
Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715
smcguire@lgvsd.org**

- A. Identify the individuals who will be enforcing the Labor Compliance Program (LCP).
(Note: If using outside consultants or an approved third party contract provider, identify the awarding body personnel who will monitor or supervise the outside work as well as the individuals and affiliations of the individuals who will perform the enforcement work.)

1. Michael Cortez, District Engineer and Susan McGuire, Administrative Services Manager

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

Michael Cortez is a registered Professional Engineer with over 20 years of experience as an engineer at public agencies, prior to joining Las Gallinas Valley Sanitary District he was District Engineer at Oro Loma Sanitary District. He started his career there as a junior engineer in the field working with contractors on inspections and monitoring prevailing wages for projects. Susan McGuire is a Certified Public Accountant with over three years of experience at Las Gallinas. In her capacity of Administrative Services Manager she has worked with outside and inside engineers in the contract compliance areas. She recently attended training sponsored by the State Water Resources Control Board concerning Department of Labor regulation and enforcement of the provisions of Davis Bacon. Prior to joining the District she was an auditor in public practice with experience working with contractors who performed public works projects.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

The District shall be responsible for the day to day operation of the LCP. Additionally decisions relating to the withholding of funds, imposition, reduction or waiver of penalties shall rest exclusively with the District. The District reserves the right to contract out some or all LCP services to CCMI or another labor compliance program for projects with Proposition 84 funding.

2.

**Contractor Compliance and Monitoring Inc.
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403 fax: 650-522-4402
Deborah Wilder, President
Mikie Hand, Sr. Analyst**

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

Contractor Compliance and Monitoring Inc. (CCMI) was approved by the California Department of Industrial Relations as a Third Party Labor Compliance Program in March 2003. CCMI personnel has nearly a decade of experience in providing prevailing wage compliance, payroll review, apprenticeship compliance and training to contractors and public agencies. CCMI works on projects involving California prevailing wage, Federal Prevailing Wage, ARRA funded projects as well as special local public works requirements. CCMI has provided services to over 100 public agencies since its inception in 2002.

Deborah Wilder, CCMI's president and a licensed attorney, has been writing Labor Compliance Programs since the early 1990s, is a published author on California and Federal Prevailing Wages and is a nationally recognized speaker on the subject.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

CCMI will provide assistance to the Las Gallinas Valley Sanitary District on an as needed basis for: advice, review, training, report writing, and oversight assistance. CCMI has no authority to control whether or not funds are released nor the authority to withhold funds on any project. CCMI does not have any authority to control any decision made by the District relating to the LCP compliance on this project. CCMI will be under the direct day to day control of the District and its LCP Officer. At the Agency's direction, CCMI may take a larger role in day to day LCP requirements on projects on which Proposition 84 funding is used.

B. State the average number of public work projects the awarding body annually administers:
Three to five.

C. State whether the proposed LCP is a joint or cooperative venture among awarding bodies; and, if so, how the resources and expanded responsibilities of the LCP compare to the awarding bodies involved:

The LCP will be administered solely by the Las Gallinas Valley Sanitary District and will be implemented by the District ONLY for those project requiring LCP(CMU) compliance.

D. Describe the awarding body's record of taking cognizance of Labor Code violations in the preceding five years, including any withholding of funds from public works contractors pursuant to LC 1726.

The District routinely requires the collection and review of certified payrolls on its projects. The District is small and has only a handful of projects each year. In the past five years, we have not had a Notice to Withhold issued by the DIR or any prevailing wage investigation of which we are aware.

E. Identify the attorney or law firm available to provide legal support for the LCP, including handling of the LCP's responsibilities during the administrative review process set forth in Labor Code Section 1771.6.

**Law Office of Deborah Wilder
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
Deborah Wilder 650-522-4400
dwilder@wilderlawfirm.com**

F. Identify the method by which the LCP will notify the Labor Commissioner of willful violations as defined in Labor Code Section 1777.1(d):

In accordance with the current requirement to provide a Request for Forfeitures to the Labor Commissioners when wages or penalties on a project exceed \$1,000, that report also provides a provision for recommendation of debarment of contractors who have willfully violated the provisions of the Labor Code. The District intends to use this format for such notification.

G. Indicate whether the Awarding Body has established its own Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations or has contracted with a third party that has been approved by the Director to operate a Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations. If the Awarding Body has contracted with one or more persons or entities to operate all or any part of the Awarding Body's Labor Compliance Program, please identify (name, address, telephone, and principal contact) all of those persons or entities.

The District is currently engaged in a project with ARRA (federal funding) requiring the monitoring of Davis-Bacon compliance for which they have retained CCMI for advice review, training and related services. The District has also applied and been awarded Proposition 84 bond funds. While these funds are not yet contracted for, the District is currently implementing a full LCP in anticipation of receiving such funding. While CCMI will continue to provide advice and assistance throughout this project (They have not been retained for any additional projects), it is the intent of the District to manage its own LCP on a day to day basis moving forward for any (non Prop 84) project otherwise requiring CMU participation awarded after January 1, 2012.

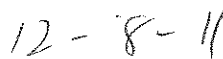
- H. Indicate whether the Awarding Body intends to enforce labor compliance on all of its public works projects (*i.e.*, not limited to projects that are funded by bonds or other statutes that require the Awarding Body to have an LCP as a condition of funding). If not, please indicate the kinds of projects on which you intend to enforce labor compliance and whether you are required to have a labor compliance program as a condition for obtaining funding for the project or projects.

The District intends to enforce its LCP only on those projects which requires the implementation of a LCP.

- I. Attach a copy of the Awarding Body's resolution adopting the LCP and, if applicable, any other resolution approving any contracts with persons or entities identified in G above.
- J. Attach the proposed manual outlining the responsibilities and procedures of the LCP.



Awarding Body's Representative
Name and Signature



Date Signed

Mail two copies of this form and attachments to:

**OFFICE OF THE DIRECTOR
DEPARTMENT OF INDUSTRIAL RELATIONS
455 GOLDEN GATE AVENUE, 10th FLOOR
SAN FRANCISCO, CA 94102
ATTENTION: EXECUTIVE ASSISTANT TO THE DIRECTOR**

LAS GALLINAS VALLEY SANITARY DISTRICT LABOR COMPLIANCE PROGRAM

INTRODUCTION

The Las Gallinas Valley Sanitary District (hereinafter referenced collectively as the “District”) institutes this Labor Compliance Program for the purpose of implementing its policy relative to the labor compliance provisions of state funded public works contracts. This update is provided as part of the District’s continuing commitment to the requirements of LCP laws and regulations. The District will continue to update its program as the laws and regulations relating to Labor Compliance Programs are changed and updated.

This program is applicable to all public works projects undertaken by the District which require a Labor Compliance Program pursuant to Labor Code Section 1771.5 and 1771.8.

California Labor Code Section 1770, et seq., requires contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research.

California Labor Code Section 1776 requires contractors to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects.

This labor compliance program contains the labor compliance standards required by state and federal laws, regulations, and directives, as well as District policies and contract provisions, which include, but are not limited, the following:

1. Payment of applicable general prevailing wage rates.
2. Employment of properly registered apprentices.
3. Providing certified payroll records upon request but not less than monthly.
4. Monitoring District construction sites for the verification of proper payments of prevailing wage rates and work classification.
5. Conducting pre-job conferences with contractors/subcontractors.
6. Withholding contract payments and imposing penalties for noncompliance.
7. Applicable reports to the California Labor Commissioner
8. Preparation and submittal of an Annual Report to the Department of Industrial Relations.

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The District is committed to providing a current, complete and accurate LCP program for all applicable projects. As such, the District will update this administrative manual and LCP documents each time the Labor Code is amended and /or the DIR issues new regulations relating to LCPs. The District will also continue see that District LCP staff receive updated training when the Labor Code and DIR regulations relating to LCP change.

Filing Statements of Economic Interest:

The District in operating wither its own labor compliance program or in contracting 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.

(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 I.

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates as set forth in Labor Code Sections 1720, 1720.2, 1720.3, and 1771, have been made applicable to District construction contracts 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) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

A. Types of Contracts to Which Prevailing Wage Requirements Apply

As provided in Labor Code Section 1771.5 and 1771.8, an awarding body's Labor Compliance Program (LCP), shall only apply to public works contracts which are subject to certain funding requiring a Labor Compliance Program.

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SECTION II.

**COMPETITIVE BIDDING ON DISTRICT PUBLIC
WORKS CONTRACTS – CONTRACT LANGUAGE**

The District publicly advertises upcoming public works projects to be awarded according to a competitive bidding process. All District bid advertisements (or bid invitations) and public works contracts requiring LCP compliance shall contain appropriate language concerning the requirements of the Public Works chapter of the Labor Code similar to the sample language listed below:

This project is subject to the requirements of Section 1770 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wage information for this project is available at the District main office or may be obtained via the internet at: www.dir.ca.gov. The District has an approved Labor Compliance Program (LCP), Labor Code Section 1771.7, and all contractors who perform work on projects with this awarding body will be subject to the terms of that LCP.

This project is subject to the requirements of a Labor Compliance Program as required by Section 1771.7 of the California Labor Code. This requires full compliance by all contractors and subcontractors on the project in accordance with the provisions of Labor Code Section 1720 et. seq. The District is required by law to review and audit the work performed on this project to ensure that proper prevailing wages and all apprenticeship requirements are met. Specifically, contractors are reminded the need for compliance with Labor Code Section 1774 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects.

As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the District or its designee, along with its request for payment, all applicable and necessary certified payrolls for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandated Labor Compliance Program, as well as any additional documentation requested by the District or its designee pursuant to Labor Code Section 1720 et. seq.

The District shall withhold any portion of a payment, including the entire payment amount, until certified payroll forms and related documentation are properly

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submitted. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the District may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

SECTION III.

JOB START MEETING

After the District awards the public works contract, and prior to the commencement of the work, a mandatory Pre Construction Conference shall be conducted with the contractor and subcontractors for the particular project. The general contractor is responsible to see that the information provided at the Pre Construction Conference, relating to Labor Compliance Program (LCP) requirements, is distributed to its subcontractors.

At that meeting, the District will discuss the federal and state labor law requirements applicable to the contract, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records to the Agency, the prohibition against discrimination in employment and other items required to be covered at the pre-job conference (see Appendix A).

Included in the handout package is a “Checklist of Labor Law Requirements for Review at Job Start Meetings” and is a brief summary of the labor laws which will be reviewed in the Pre-Construction Conference.

Additionally, the handout material includes the following sample forms:

Certified Payroll Form

Fringe Benefit Reporting Form (PW 26)

DAS 140- Register to Train Apprentices

DAS 142 – Request for Dispatch of Apprentices

CAC 2- Apprenticeship Contribution Form

Notice of LCP Contact Information- required to be posted on jobsite

Also included in the packet for illustrative purposes, is a sample copy of a prevailing wage determination. This assists the contractors as the District reviews prevailing wage requirements and such things as the double asterisk rule, the difference between Basic Hourly Rate and Total Hourly Rate, etc.

Contractors are referred to the DIR website at www.dir.ca.gov for updated prevailing wage information, apprenticeship regulations, forms, etc. And, the contractor is provided with

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information regarding the LCP contact person assigned to the specific project. Contractors are reminded that all of the steps required of the Labor Compliance Program are the same steps currently required on all prevailing wage projects. It is just that the LCP now requires that all the documentation be submitted and reviewed.

The last page of the handout is a duplicate copy of the signature page from the "Checklist" included earlier in the packet. This page is repeated so the contractor can merely remove the last page from the packet, sign it and turn it in to the District staff at the conclusion of the meeting.

The contractors and subcontractors present at the Job Start meeting will be given the opportunity to ask questions of the District relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's representative, the District's representative and a representative of each subcontractor who is present.

The average time to review this information with contractors is approximately 30 minutes to one hour, depending on the number of contractors in attendance and the number of questions asked.

The General (Prime) Contractor is responsible to provide copies of the LCP Pre Construction Package and Checklist of Labor Law Requirement to all subcontractors on the project who are not in attendance at the Pre Construction Conference.

SECTION IV.

REVIEW OF CERTIFIED PAYROLL RECORDS

A. Certified Payroll Records Required

The contractor and each subcontractor 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 District's project sites. 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 assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid.

1. Submittal of Certified Payroll Records

The contractor and each subcontractor shall maintain weekly certified payroll records for submittal to the District as required, but not less than monthly. 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, that the wage rates contained therein are not

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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.

For weeks in which a contractor/subcontractor is not working on a project, a Statement of Non-Performance is required. Once a particular contractor/subcontractor has completed their work, the last Certified Payroll submitted should be identified as the "Final" Certified Payroll.

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 an awarding body, a Labor Compliance Program, 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.

2. 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 tradesworker 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 District and the Department of Industrial Relations, and shall permit such representatives to interview tradesworkers during working hours on the project site.

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3. 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. Moreover, the contractor is responsible for Labor Code violations by its subcontractors of which it has knowledge.

- a. The contractor shall monitor the payment of the specified general prevailing per diem wages by each subcontractor to its employees by periodic 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 may have been imposed for working hours violations (Labor Code Section 1775 and 1813).

4. Payment to Employees

Employees must be paid unconditionally, the full amounts which 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). On each and every payday, each worker must be paid all sums due and must be provided with an itemized wage statement.

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 tradesworker. 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 workers' compensation laws.

A worker's rate for straight time hours must equal 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 (overtime) pay. All work performed in excess of eight hours per day, 40 hours per week, on Saturday, on Sunday, and on holidays shall be paid in accordance with the applicable Prevailing

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Wage Determination. Additionally, appropriate shift pay and applicable travel and subsistence pay is also required.

5. Maintaining Records:

The District shall maintain all records relating to any project subject to Labor Compliance for a period of three (3) years from the date of the filing of the Notice of Completion of the Project. In the event no Notice of Completion is filed, the District shall maintain all LCP records relating to a specific project for three (3) years from the date of actual completion or beneficial occupancy, whichever is later.

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.

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 thereunder for the area of construction, prior to using any apprentices in the contract work.

Pre-apprentice trainees, trainees in nonapprenticeable 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.

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Register the prevailing wage project (DAS-140);
2. Request to Train apprentices on public works projects in a ratio to journeypersons as stipulated in the Apprenticeship Standards under which each Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one (1) apprentice hour to each five (5) journeypersons hours worked on the project. (DAS-142 or equivalent documentation or the actual employment of apprentices).
3. 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

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

C. Payroll Review and Audits

Payroll review and audits shall be conducted by the District's Labor Compliance Officer (or their trained designee), and may also be conducted at the request of the Labor Commissioner to determine whether all tradesworkers on project sites have been paid according to the prevailing wage rates.

The District's preference and recommended practice is to review all certified payroll for all employees for all weeks of work on a project at least once a month. However, the LCO **shall** review the certified payrolls not less than one a month. The LCO **shall** review payrolls for **at least** one full week of payroll for each contractor or subcontractor performing work on the applicable project for each month in which work was performed on the project.

1. Audit of the obligation to pay the prevailing per diem wage means review and audit of weekly-certified payroll records for compliance with:
 - a. All elements defined as the General Prevailing Rate of Per Diem Wages in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the District's Facility Office and posted at the public works job site;
 - b. All elements defined as Employer Payments to Workers set forth in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the District's Facility Office and posted at the public works job site.

The LCO shall also seek verification of proper payment of prevailing wages to workers by randomly requesting paycheck verification for at least one worker from each contractor/subcontractor for at least one weekly period within each month.¹

¹ Title 8 CCR §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"

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2. Audit of the obligation to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public work as to: whether contract award information was received (DAS-140), including an estimate of journeyman hours to be performed and the number of apprentices to be employed; whether apprentices have been requested (DAS-142), and whether the request has been met; whether the program sponsor knows of any amounts received from the contractor or subcontractor for the training fund or the California Apprenticeship Council (CAC-2); and whether persons listed on the certified payroll in that craft or trade being paid less than the journeyman rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards. Alternatively or in addition to inquiring of the program sponsor, the LCO shall, as appropriate, reference the DIR website for the listing of enrolled apprentices and any contribution alleged made by a contractor on a CAC-2 form for the payment of training contributions.

DAS 140 - Register to Train – The District will look to receive a DAS-140 from each contractor for **each** apprenticeable craft employed on the project. The original DAS-140 should be sent within ten days of each contractor/subcontractor starting work on the project. A copy of DAS 140 forms should be turned in with each contractor's and subcontractor's first certified payroll. If the form is not completed correctly or is not submitted, the contractor/subcontractor will be notified of this deficiency and asked to take corrective action by completing and filing a correct DAS-140 form.

DAS 142 - Request apprentices- The District will look for either apprentices being employed on the project (through examination of certified payrolls) or look to receive a DAS-142 (or its equivalent) from the contractor/subcontractor for each apprenticeable trade employed on the project and confirmation that the DAS-142 form was sent to an appropriate apprenticeship committee. A contractor is NOT REQUIRED to use the DAS-142 form, but can document its request for apprentices by other means. However, if a contractor does use the 142 form (filling it out properly and filing it promptly), with a delivery receipt, the contractor is "legally presumed" to be in compliance.

Employ Apprentices in 1:5 ratio – To the extent that apprentices are available for employment, the Labor Code mandates that apprentices are employed in a 1:5 ratio. This means an average (calculated at the end of the project) of one apprentice hour for every 5 journeymen hours. Some approved Apprenticeship Standards recognize a different ratio and those other ratios may be used so long as the apprenticeship committee has DAS approval.

Pay correct apprenticeship rates - Apprenticeship wage rates will also be checked by the District against the applicable prevailing wage determination.

Pay correct training contribution (CAC 2) - The District will review and confirm that the training contributions set forth in the prevailing wage

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determination are paid to either an approved apprenticeship committee or to the California Apprenticeship Council. (CAC-2 contributions to be confirmed through DIR website).

Additional Review: The District will also engage in the following additional review to determine LCP compliance:

Proper Licensing

Businesses and Professions Code Section 7000 et seq. requires all companies performing construction work to be properly licensed and bonded. The District will check the contractor's/subcontractor's license status through the Contractors State License Board website at: www.cslb.ca.gov. Contractors working without a valid license will be removed from the project.

Worker's Compensation Insurance

Labor Code Section 1861- All contractors and subcontractors employing workers on the project are required to provide worker's compensation coverage. The District will verify that all contractors/subcontractors have appropriate worker's compensation while employing workers on the project. This information can also be verified through the California Contractor's State Licensing Board website. Contractors who do not have worker's compensation for their employees will be removed from the project (recognizing that sole proprietor, owners, corporate officers and some related family members are excluded from worker's compensation requirements). Further, out of state contractors may be allowed to use their out of state workers compensation coverage for a period of up to 30 days.

Electrician Certification:

The Division of Apprenticeship Standards also requires that all electricians in the State of California possess adequate training to perform their job. As such, all electricians must fall into one of the following categories:

- Journeyman- Certified
- Journeyman- Trainee
- Apprentice

The District will check the status of all electricians employed by using the DAS website. Electricians which do not fall into one of these categories will be removed from the project. And, the incident will be reported to the DAS at the end of the project.

The District shall also review and provide compliance review for all other items listed on the Checklist (Appendix A).

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SECTION V.

ONSITE JOB VISITS AND WORKER INTERVIEWS

Site Visitations

1. Safety is the paramount factor for any site visit to any District construction projects. Site monitor is expected to exercise reasonable caution at all times.
2. All personnel working on or visiting any District construction sites are required to be properly identified and visibly wear District issued picture ID's (badge). Additionally, all authorized personnel are required to wear hard hats and safety shoes.
3. Authorized personnel shall visit all sites on a non-interference basis and take a minimum amount of the workers' time for interview purposes.
 - a. Each week upon arrival at a site, the site monitor will check in at the site superintendent's (contractor's) trailer to determine if the appropriate postings are on the jobsite. These include, but are not limited to:
 - EEO Posters
 - Prevailing wage sheets posted
 - Notice informing the employees that the project is subject to a Labor Compliance Program and providing the District's LCP contact information.
 - Other appropriate required postings required by law.

Interviewing

1. Not less than once a month, job site interviews of employees will take place. It is the District's policy to attempt to interview at least one employee from each contractor/subcontractor who performs work on the project. With that goal in mind, interviews may be conducted on a weekly basis, but in no event less than monthly.
2. Once the LCO or his/her designee checks in with the site superintendent and obtains access to the site, the Interviewer will attempt to locate tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area. The interviewer shall identify themselves as a District representative, and ask to speak to the employee for a few minutes. Interviews should not be conducted in an area or during a time when either the interviewer or the worker would be subject to injury due to worksite activity.

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These interviews are random; two or three tradespersons for each subcontractor is sufficient for one visit. Any persons missed are usually interviewed on subsequent visits. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractors present. Contractor tradespersons should also be interviewed.

3. Using the Labor Compliance Site Visitation Interview form, each person will be asked the following: name, social security number, employer, title (trade), rate of pay, and task being performed at the time of interview. (See Appendix B).

Guidelines for Interviewers:

- a. Should someone decline to speak with you, respect those wishes. If someone asks if this is union-related, tell them no. The District works with both open and closed shop trades.
- b. If you try to interview someone who does not speak English and you cannot communicate in the appropriate language, try to locate a coworker who can interpret for you. If you find an entire crew unable to speak English and no interpreter, include this in your report to the LCO.
- c. If someone refuses to disclose his/her social security number to you, respect those wishes. However, assure that person that all information given is kept strictly confidential.
- d. If someone does not know their rate of pay (most tradespersons do not know the exact penny of wages earned), ask for an estimate. If the response is, "whatever prevailing wage is", so indicate on the form.
- e. If someone indicates that he/she is an apprentice, make sure that you ask him/her what period. These can be anywhere from 1st to 10th. If s/he's not sure, ask him/her how many years s/he's been apprenticed in the specific trade and/or to estimate and so indicate on the interview form.
- f. ALWAYS thank them for their time.
- g. Keep in mind that you are there to collect information only, do not tell them how to do their jobs. Should you witness what you consider a potentially unsafe or unwarranted condition, you are to contact the site inspector or job superintendent of your findings immediately and make a note on your site visitation log of what you observed. Upon your return to the office, report your findings to the LCO.

Reporting

All original interview forms shall be submitted to the LCO no later than the end of each workweek.

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Daily Job Logs

The Daily Job Logs will be used by the District to cross check staffing on the various LCP projects. The Daily Reports should list those contractors and subcontractors present on the site on a specific day as well as the number of employees employed on the project by each contractor/subcontractor. While the Daily Reports are merely a “snap shot” of the project at the time of the report information, the Daily Reports are used by the District to determine if a Contractor has failed to properly list all employees performing work on the project.

Extended Audits

When the District finds a potential violation which leads it to believe that prevailing wages has not been properly paid and the documentation submitted by the contractor/subcontractor is inconclusive, the District will exercise its authority to conduct a full investigation to verify whether appropriate prevailing wages were paid on the project

1. Requesting Additional Documentation from Contractor

The District shall request additional documents in writing, listing the specific documentation requested. The District will also invoke the provisions of Labor Code Section 1776 in demanding that the documents be produced within 10 days.

2. Conducting Additional Interviews

Based on the District’s investigation, the District shall engage in additional interviewing of employees who worked on the project. These interviews may be conducted in person or via other means of communication (i.e. email, telephone, mail).

SECTION VI.

ENFORCEMENT

A. Duty of the Awarding Body

The District has a duty to enforce the Labor Code public works requirements (Chapter 1 of part 7 of Division 2 and Division 3 of the Labor Code).

1. Monthly Communication to the Contractor:

Upon completion of the monthly audit and review of certified payrolls, the District shall communicate with the prime contractor on the project as to all violations, inadequacies, or deficiencies for the prime contractor and any applicable subcontractor. The District shall create Monthly Audit Reports for each contractor/subcontractor on the project who has failed to submit

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correct LCP documentation and/or has failed to pay the applicable prevailing wage or comply with other LCP requirements.

If a contractor has no errors or incomplete information in the current month, but has outstanding items from a prior month, the District will continue to send a Monthly Audit Report until full compliance has been met.

The District's monthly report to the Contractor shall include:

- Name of Project
- Prime Contractor
- Subcontractor with outstanding violation
- Weeks of Certified Payrolls reviewed
- Any deficiency in paperwork
 - Incorrect or Missing:
 - Certified Payrolls
 - Fringe Benefit Statement
 - DAS 140
 - DAS 142
 - CAC 2

- Identify any wage deficiencies, classification issues, etc.

- Direct Contractor to correct said deficiencies and provide documentation of corrective action.

- Invoke 1776 documents request – as needed.

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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 Section 1729. A release bond under Civil Code Section 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, 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;
3. "Delinquent payroll records" means those not submitted on the basis set forth in the District contract and the Labor Compliance Program;
4. "Inadequate payroll records" are any one of the following:
 - a. A record lacking the information required by Labor Code Section 1776;
 - b. A record which contains the required information but which is not certified, or certified by someone not an agent of the contractor or subcontractor;
 - c. A record remaining uncorrected for ten (10) days, after the awarding body has given the contractor notice of inaccuracies/omissions detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies/omissions 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 Section 1776 and Title 8 CCR Section 16401. Prompt correction will stop any duty to withhold if such inaccuracies are de minimus.

Progress payments will be withheld if certified payrolls have not been properly submitted. A portion of a progress payment may be withheld from the District if potential wage violations have been identified, are not corrected and could exceed the amount of applicable retention on the project. If the District does withhold any portion of a progress payment due to an identified prevailing wage violation, the contractor shall be notified in writing of such withholding and given an opportunity to have a meet and confer meeting/conference call with the District's representative not later than 15 days after the progress payment is withheld.

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SECTION VII.

THIRD PARTY REQUESTS AND ENFORCEMENT

1. Third Party Requests for Payroll

When the District receives a request for certified payrolls of a contractor /subcontractor from a third party pursuant to Labor Code Section 1776, any records which the District makes available to such a third party shall be appropriately redacted pursuant to Labor Code Section 1776 (e).

2. Third Party Complaints

Upon receipt of a written complaint from a third party 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 effected 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.

SECTION VIII.

PROJECT CLOSE-OUT- FORFEITURES AND PENALTIES

Once the project has been completed, the District shall:

1. Write a 10 day letter to each contractor/subcontractor who still has outstanding documents or wage and apprenticeship violations requesting that the contractor provide any required documentation to the District or pay restitution due its employees within ten days from the date of the receipt of the letter. See sample letter Appendix C. A copy of this letter will also be mailed to:

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Subcontractor – Certified and Regular Mail
General Contractor – Certified and Regular Mail

2. After 10 business days, determine if all of items have been addressed.

IF NO WAGE VIOLATIONS HAVE OCCURRED during the course of the project, and nothing is outstanding, the District shall close the project and keep this data to reference for the District's Annual Report.

If ANY WAGE VIOLATION HAS OCCURRED during the course of the project, then the District will assess penalties as follows:

•**Wage Violation** – Labor Code 1775 - \$50 per day per worker per violation. With the new LCP regulations, the District now has discretion to reduce or waive penalties. Reductions or waivers will only be made if the contractor meets the requirements of Labor Code Section 1775, subparagraph (b) i.e. good faith or inadvertent error, prompt correction and no additional violations. No reduction should be made if there are outstanding wages still due. Reasons for reduction of penalties will be documented and included in Notice of Request for Forfeitures to the Labor Commissioner.

•**Overtime Violation** – Labor Code Section 1813 - \$25.00 per day per worker. Mandated by statute with no discretion for reduction. Even if certain union agreements allow for employees to work four days of 10 hours each day without overtime, it is the prevailing wage determination which will control in this instance with overtime pay being mandated after 8 hours worked in a day. Labor Code Section 1811.

•**Failure to Provide Certified Payrolls** (including fringe benefit statements, timecards, canceled checks, etc.) within 10 days of Request - Labor Code 1776 (g). The penalty of \$25.00 per day per worker continues until strict compliance is met (all documents delivered). Before imposing 1776 penalties, the District will ensure that any request for documentation includes:

- Identification of the specific documents requested
- Identification that the request is made pursuant to Section 1776(g) of the Labor Code and that penalties of \$25 per day per worker will be imposed until there is strict compliance
- Delivery of the notice must be by certified mail or other means where the contractor signed a receipt of the notice

•**Willful and/or Repeat Offenders** will be subject to maximum penalties as stated above and a recommendation of debarment from public works will be made to the DIR.

•**Liquidated Damages** – If prevailing wages remains unpaid 60 days after a Notice to Withhold is issued to the contractor, the contractor shall be assessed liquidated damages

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equal to the amount of any unpaid wages. The District shall hold appropriate funds at the conclusion of the project to cover all wages due, penalties and liquidated damages.

• **Apprenticeship Violation** - Labor Code Section 1777.7 \$100 - \$300 per calendar day of noncompliance and debarment up to 3 years. This may include failure to pay training contributions, employ apprentices at the ratio required, etc. The District does not have the authority to impose penalties for Apprenticeship Violations, but instead will file a Public Works Complaint detailing the violation and submitting relevant documentation of the violations to the DAS.

• **Unlicensed Contractor** – Labor Code Section 1021. Any contractor working without a valid contractor license shall be subject to a penalty of \$200 per day per worker. This is not a penalty that LCPs enforce. Rather, the District will file a complaint with the DIR, as well as with the Contractors State License Board (CSLB).

3. If the total wages and penalties outstanding and due are less than \$1,000, then the LCO will proceed to issue a Notice of Withhold to the Contractor/and any applicable subcontractor. (See Notice to Withhold Appendix E).

4. If wages and penalties exceed \$1,000, the District will complete the Request for Forfeiture form (see Appendix D) and send it with the appropriate documentation to the Labor Commissioner for review and decision. “LCP Request for Forfeitures” and “Penalty Worksheet” spreadsheet will be completed in full. Penalty worksheet will list dates of violation and include summary worksheet, including the following:

- a. Audit summary (District’s penalty worksheet summary and individual employee penalty worksheets).
- b. 1st Bid Advertisement Publication Notice of Completion (if filed).
- c. Scope of Work.
- d. Complaint forms and declarations, if any from third parties or employees.

The close out documents will be sent to the following:

General Contractor – certified and regular mail;
Affected Subcontractor – certified and regular mail;
Overnight delivery (with signature required) or certified mail to Labor Commissioner

5. The Labor Commissioner then has 30 days to respond. (Once the District has had a response from the Labor Commissioner, a Notice to Withhold shall issue). In the event the Labor

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Commissioner does not respond within 30 days, the District shall then issue a Notice to Withhold based on the information provided in the Request for Forfeiture Notice. The Notice to Withhold shall be sent as follows:

General Contractor –certified and regular mail
Effected Subcontractor – certified and regular mail

6. Allow 60 days for the contractor to contest the penalties. If the contractor contests the Notice to Withhold, then the District (upon receipt of the written Request for Review) will promptly forward the Request for Review to the District’s General Counsel.

****Potential Settlement Options** –under the new regulations, the District does have the ability to engage in settlement discussions and will do so before the filing of a Request for Forfeiture. Specifically, once the District has determined an actual violation has occurred, notification will be provided to the effected contractor/subcontractor with an opportunity to correct the wage deficiency. The contractor/subcontractor shall have at least 10 days from such notification to submit information/documentation that such error was made in good faith and corrected promptly. If the correction is made promptly and a waiver of penalties is determined, no Request for Forfeiture will be made to the Labor Commissioner. However, the District will keep this information and include it with its Annual Report. When considering the compromise or waiver of penalties, the District will consider the nature of the violation, good faith error versus a knowing violation. **Any contractor with an outstanding wage violation at the completion of the project (after being provided the information of the violation and at least 10 days to correct that violation) is NOT eligible for a reduction or waiver of penalties.**

If, after a Notice to Withhold is issued, a contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b). The LCP shall have and exercise the same rights and responsibilities of the Enforcing Agency (as defined in Section 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 office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) of CCR Title 8 Section 16439, the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever the 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 Section 1742, the LCP shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

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7. If the 60 day time period expires and no request for review is filed, then the sums set forth in the Notice to Withhold are deemed forfeit to the District (except to the extent that any wages due, must be turned over by the District to the affected employees (if the employees cannot be located after a diligent search, then those wage funds are turned over to the Labor Commissioner).

Close Out Completion Report:

For each LCP project, the District shall prepare a Project Completion Report and keep such report in the applicable project file. The Project Completion Report is attached hereto as Appendix H.

APPRENTICE/TRAINING VIOLATION:

- Unpaid training for any trade
- No DAS 140 form submitted
- No DAS 142 form submitted and no apprentices on the project
- Electrician certification violation

For any violation relating to apprenticeship or training, the District shall complete and file a Public Works Complaint with the Division of Apprenticeship Standards and enclose the applicable documentation.

The Public Works Complaint and applicable documents shall be sent to:

- General Contractor – certified and regular mail;
- Effected Subcontractor – certified and regular mail;
- DAS :

The Division of Apprenticeship Standards
Public Works Division
P.O. Box 420603
San Francisco, CA 94142

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SECTION IX.

**NOTIFICATION OF CONTRACTOR AND APPEAL RIGHTS
OF PROGRAM ENFORCEMENT ACTION**

Notice of Withholding of Contract Payments (NWCP)

After determination of the amount of forfeiture by the Labor Commissioner, the District shall provide notice of withholding of contract payments 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. Notice to Contractor shall be deemed notice to its performance bond surety. 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 such bond, if their identities are known to the awarding body. A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the District is found as Appendix E to this document.

A. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the office of the LCP that appears on the NCWP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.
2. Within ten days following the receipt of the Request for Review, the LCP shall complete and serve a Notice of Transmittal on the DIR and the applicable contractor(s). Within 20 days of receipt of the Request for Review, the LCO shall provide to the party requesting review and a copy of the Opportunity to Review Evidence. (A copy of the required Notice of Transmittal to be utilized by the District is found as Appendix F to this document. A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Appendix G to this document).
3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the Director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

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The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Pursuant to Labor Code Section 1742.1, there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties has been deposited by the contractor with the Department of Industrial Relations within 60 days following service of Notice to Withhold.

Within 45 days of the conclusion of the hearing, the Director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the Director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the Director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time. The Director has adopted regulations setting forth procedures for hearings under this subdivision.

4. An affected contractor or subcontractor may obtain review of the decision of the Director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
5. 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.
6. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.
7. This procedure shall provide the exclusive method for review of a NWCP by the District to withhold contract payments pursuant to Section 1771.7.

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SECTION X

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 District shall withhold and retain from sums owing Contractor, if any, all amounts required to satisfy the NWCP. The amounts required to satisfy the NWCP shall not be disbursed by the District until receipt of a final order that is no longer subject to judicial review.
2. Pending a final order, or the expiration of the time period for seeking review of the Notice of the Withholding, the District shall not disburse any contract payments withheld.
3. 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 employed on the public works project who are paid less than the prevailing wage rate. Said wages due shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
4. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the District that has enforced this chapter pursuant to Section 1771.7.
5. 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.
6. 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 Labor Compliance Program shall deposit penalties and forfeitures with the District.

Where collection of fines, penalties or forfeitures results from administrative proceedings or court action to which the Labor Commissioner and District or its Labor Compliance Program are both parties, the fines, penalties or forfeitures shall be divided between the general funds of the state and the Awarding Body, as the Hearing Officer or court may decide.

All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the District or its Labor Compliance Program is not a party, shall be deposited in the general fund of the State.

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SECTION XI.

ANNUAL REPORTS

A. Annual Report on the Labor Compliance Program to the Director of the Department of Industrial Relations

The District will submit to the Director of the Department of Industrial Relations an annual report (LCP-AR1) on the operation of its Labor Compliance Program within 60 days after the close of its annual reporting period. The annual report will contain, as a minimum, the following information:

1. Labor Code violations identified and reported to the Labor Commissioner;
2. The number of public works contracts awarded which require LCP compliance;
3. A summary of wages due to workers resulting from failure by contractors to pay prevailing wage rates; the total amount withheld from money due the contractors; and the total amount recovered by action in any court of competent jurisdiction;
4. A summary of apprenticeship violations;
5. And all other information required as part of the Annual Reporting requirements as required by CCR Title 8 Section 16431.

Appendix A
CHECKLIST OF LABOR LAW REQUIREMENTS
FOR REVIEW AT JOB START MEETINGS
(In accordance with CCR Section 16430)

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. Prevailing wage determinations for this project can be obtained at: www.dir.ca.gov. This includes a total package including fringe benefits and training contributions which are paid to the employee or for the benefit of the employee to a bona fide ERISA approved or otherwise unconditionally paid for the benefit of the employee Trust Fund.

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. Or the contractor may post a notice stating where the prevailing wage determinations are available on the jobsite and the contractor shall provide access to such information upon reasonable notice.

2. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on public works projects per Labor Code Section 1777.5; Contractors and subcontractors must submit proof of Request to Train Apprentices (DAS140) or other documentation for Division of Apprenticeship Standards approved apprenticeship programs. Apprentices are to be employed in all crafts and in all trades with approved training programs. Contractors are to employ apprentices on a ratio of 1 apprentice hour for every 5 journeymen hours or as otherwise approved by the DAS approved Apprenticeship Training Committee. Contractors and subcontractors who do not meet this ratio must submit documentation that apprentices were requested and were not provided and/or not available in sufficient number to meet this ratio. The submission of an accurate DAS142 meets this requirement. Additional documentation may be required to verify the apprenticeship status of employees.

3. Penalties

Penalties, including forfeitures and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages, 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 Sections 1775, 1776, 1777.7, and 1813. Monetary penalties of \$50 per day per worker shall be imposed for failure to pay correct prevailing wage; \$25 per day per worker shall be imposed for overtime violated; \$25 per day per worker for failure to provide certified payroll information; \$100 per calendar day for noncompliance of Apprenticeship issues.

4. Certified Payroll Records

Per Labor Code Section 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. A listing of all current prevailing wage determinations can be obtained from the Agency's main office or by accessing the Department of Industrial Relation's website at: www.dir.ca.gov.

Employee payroll records shall be certified (signed under penalty of perjury by someone in authority at the company) 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. Disclosure of certified payroll information to anyone other than the Awarding Body, its agent, or the Department of Industrial Relations requires that personal information about the employees (name, address and social security number) listed on the forms be redacted (omitted) to protect employee privacy.

Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls on a monthly basis in conjunction with contractors requests progress or final payment. 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. The Agency or its authorized representative is also authorized to request and review all related payroll records such as time cards, cancelled checks, etc.

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 opportunities 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. All other labor and employment related posters are also to be properly displayed on the jobsite.

6. Kickback Prohibited

Per Labor Code Section 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 Section 1779); or for filling work orders on public works contracts (Labor Code Section 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 (Public Contract Code Section 4100, et seq.);

9. Proper Licensing

Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code Section 1021 and Business and Professions Code Section 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 Sections 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 Section 3700 (Labor Code Section 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.

13. Prompt Payment of Subcontractors and Suppliers

Contractors are required by law to promptly pay their subcontractors and suppliers within ten (10) days of receipt of any progress payment from the Public Agency. Likewise the subcontractor and supplier are required to pay their respective subcontractors and suppliers within ten (10) days of receipt of payment from the general contractor. When the payment to the contractor is a release of final retention on the project, those funds must be paid within seven (7) days of receipt.

14. IRCA

Pursuant to the Immigration Reform and Control Act of 1986, employers are required to verify that all employees working on public works contracts are legally able to work in the United States. Employers shall keep on file appropriate I-9 forms and documentation for all workers employed on the jobsite and make such forms available to inspection and review by the LCO upon request.

In accordance with federal and state laws, and with Agency's policy and contract documents, the undersigned contractor herein certifies that it will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject it to the penalties cited herein.

15. Jobsite Interviews

The Labor Compliance Program requires that a sampling of employees is interviewed each month. To the extent practical, we will attempt to notify the General Contractor prior to arriving on the jobsite.

16. Certification of Electricians

Those employing electricians must comply with employment testing and certification requirements for electricians. Additional information may be required to verify the certification status of those employed.

17. Employee Wage Statements - It is required to provide itemized wage statements (pay stubs) to Employees under Labor Code Section 226.

18. Posting of Labor Compliance – Notice of Labor Compliance Approval is required to be posted at the job site in accordance with section 16429, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. (Sample attached in handout).

19. Confirmation of Payroll Records – Confirmation of payment to employees for each contractor and subcontractor shall be undertaken randomly for at least one worker for at least one weekly period within that month. This will entail a monthly request of the front and back of a canceled check and employee pay stub for each contractor/subcontractor. Per Title 8 of the California Code Regulations section 16432(c).

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

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 _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Public Works Projects

The Basics: Summary of requirements relating to Apprenticeship

California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Submit contract award information
2. Employ registered apprentices
3. Make training fund contributions.

Submit contract award information

Contractors who are not already participating in an approved program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from at least one other apprenticeship committee, if more than one exists in the area of the public works project

1. Submit the contract award information in writing to each of the apprenticeship program sponsors in the area of your public works project within 10 days of the prime execution of the contract or subcontract, but in no event later than the first day in which the contractor has workers employed on the public work. You may use form DAS 140. This is simply a notification of award, it is not automatically a request for dispatch of a registered apprentice.

Employ registered apprentices

A contractor on a public works project must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman.

All contractors must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 48 hours (business days only) before the date on which apprentices are required. Contractors who are not already participating in an approved program and who did not receive sufficient number of apprentices from their initial request must dispatch of apprentices from at least one other apprenticeship committee, if more than one exists in the area of the public works project.

Make training fund contributions

Contractors who are awarded public works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. This nominal fee contributes to the assurance that new apprentices coming into the craft will be guaranteed the highest level of training and as those skilled craftsmen retire, the trade will survive.

Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council, PO Box 420603, San Francisco, CA 94142-0603.

Training fund contributions to the Council are due and payable on the 15th day of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a completed training fund contribution form (CAC – 2) or a letter containing the following information:

1. The name, address and telephone number of the contractor making the contribution.
2. The contractor's license number.
3. The name and address of the public agency that awarded the contract.
4. The jobsite location, including the county where the work was performed.
5. The contract or project number.
6. The time period covered by the enclosed contributions.
7. The contribution rate and total hours worked by apprenticeable occupation.
8. The name of the program(s) that provide apprentices if any.
9. The number of apprentice hours worked, by apprenticeable occupations and by program.

Comments, suggestions and questions welcome. Email to daspublicworks@dir.ca.gov or call your local district office.

Additional Explanation And Instructions Relating To Required LCP Forms and Information

Certified payroll or non performance documentation - is required for each week from the beginning of the contractor's /subcontractor's work on the project until completion of that contractor's/subcontractor's work. These documents need to reflect a consistent 7 day work week for the entirety of the project. The certified payroll forms need to be complete, listing the employee's correct name, address, social security number, hours worked per day, total hours worked per week, wages, deductions and check number. It is critical that the employee's craft classification be listed correctly. Just listing "Journeyman" or "Laborer" is not sufficient. Many trades have sub-classifications and it is the contractor's obligation to correctly classify the employees. Employees must be classified and paid based on what type of work they are performing, not merely by title. It is acceptable for an employee to work in more than one trade category per day, but it is the employer's obligation to keep accurate records of the different type of work performed by the employee.

Please be aware non performance statements must be submitted for weeks in which no work is performed. More information about trade classifications and wage rates can be found at www.dir.ca.gov.

Fringe Benefit Statement - In order to complete a payroll audit, we need a copy of the fringe benefit statement listing the fringes being paid to each employee or employees on each trade. You are not required to use the worksheet in the packet, however all the information on that worksheet needs to be included in the documentation we receive. This should show an hourly breakdown of the specific contributions (health, pension, etc.) for each trade and the addresses of the plans being paid into. For contractors who pay medical benefits directly to a medical plan, such as Kaiser or Blue Shield, the monthly payment for each employee must be amortized into an hourly rate. (For example: Joe's health premium is \$300 a month, that rate multiplied by 12 (months) divided by 2080 (hours) yields an hourly rate of \$1.72 per hour). Similar amortization is allowed for vacation and holiday time paid. Training contributions paid to an approved apprenticeship committee needs to be listed as a separate item on this form (i.e. not just training/other together).

Additional Explanation And Instructions Relating To Required LCP Forms and Information (cont.)

Apprenticeship

DAS 140* - is a document required by the Division of Apprenticeship Standards (DAS) and must be completed by all contractors, on each project, with a separate form for each apprenticable trade employed. This form registers Contractors for the project. Please make sure ALL fields are complete on this form with accurate information, such as dates and times to be employed. The State requires that apprentices be requested at a 1 to 5 hourly ratio. While some areas have received a 1 to 5 person waiver, it is exactly that, a waiver. For this reason, putting "0" estimated apprentice hours, or N/A or TBD for dates and times is not acceptable. Please remember that this form requests "estimated" numbers.

This form is to be sent to an approved apprenticeship program, with a copy sent to our office. To locate apprenticeship programs approved by the Division of Apprenticeship Standards you can go to www.dir.ca.gov and look under the apprenticeship heading for a list (by county and by trade) of all approved apprenticeship committees/programs. This form MUST be completed and submitted even if you have no desire to employ apprentices.

DAS 142 or equivalent documentation* - proof of request for apprentices is required. Contractors must submit a separate form for each trade that they employ. If using the DAS 142, be sure all fields are complete. If submitting alternate documentation such as a phone log, be sure to include the same information as required by the DAS 142 – specifically the number of apprentices needed (0 is unacceptable), the craft or trade, the date, time, and address for apprentices to report.

CAC2 – Proof of Training Contribution – This document is required by all contractors which are sending their training contributions to the California Apprenticeship Council. If the training contributions are being sent to an apprenticeship program, then the training amount must be reported on the fringe benefit statement.

* * * * *

* DAS-140 and DAS-142 forms are not required when the general contract is less than \$30,000 or when the company performing the work is a sole proprietor and is the only worker employed by that company on the project

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 AWARING 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**

REQUEST FOR DISPATCH OF AN APPRENTICE

Do not send this form to DAS

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 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.

Date: _____

To Applicable Apprenticeship Committee: _____

Address: _____

Telephone: _____ Fax: _____

Contractor Requesting Dispatch: _____

Address: _____

Telephone: _____ Fax: _____

Person making request: _____

Number of Apprentice(s) Needed _____ Craft or Trade _____

Date Apprentice(s) to Report: _____ (48 hours notice required)

Name of Person to Report to: _____

Address to Report to: _____

Time to Report: _____

You may use this form, or make a verbal or written request, to ask for the dispatch of an apprentice. Please take note of California Code of Regulations, Title 8, § 230.1 (a) which says in part: *if in response to a written request an Apprenticeship Committee does not dispatch any apprentice to a contractor who has agreed to employ and train apprentices in accordance with either the Apprenticeship Committee's Standards or these regulations within 72 hours of such request (excluding Saturdays, Sundays and holidays) the contractor shall not be considered in violation of this section as a result of failure to employ apprentices ...*

DAS142 (Rev. 9-03)

CONTRACTOR FRINGE BENEFIT STATEMENT

State of California
 Department of Industrial Relations
 California Apprenticeship Council
 P. O. Box 420603
 San Francisco, CA 94142

TRAINING FUND CONTRIBUTIONS

Please use a separate *form* for each jobsite, listing the occupations for the jobsite. One *check* payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations. Training fund contributions are *not accepted* by the California Apprenticeship Council for federal public works projects, or for non-apprenticeable occupations such as utility technicians, teamsters, etc.

**California Apprenticeship
 Council**

NAME AND ADDRESS OF CONTRACTOR/SUBCONTRACTOR MAKING CONTRIBUTION	CONTRACTOR'S LICENSE NUMBER			
	CONTRACT OR PROJECT NUMBER			
	JOBSITE LOCATION (INCLUDE COUNTY) IF APPLICABLE GIVE NAME OF SCHOOL, HOSPITAL, BUILDING, ETC.			
NAME AND ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	PERIOD COVERED BY CONTRIBUTION (FROM-TO)			
CLASSIFICATION(S) OF WORKERS (CARPENTER, PLUMBER, ELECTRICIAN, ETC.)	COUNTY WORK PERFORMED IN	HOURS	CONTRIBUTION RATE PER HOUR	AMOUNT
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
			Total	\$0.00
SIGNATURE PLEASE TYPE OR PRINT YOUR NAME			DATE	
TITLE			AREA CODE & TELEPHONE NUMBER	

Contract Number / Name:	Contract Location:	Today's Date:
-------------------------	--------------------	---------------

Contractor / Subcontractor Name:	Business Address:
----------------------------------	-------------------

In order that the proper Fringe Benefit rates can be verified when checking payrolls on the above contract, the hourly rates for fringe benefits, subsistence and/or travel allowance payment made for employees on the various classes of work are tabulated below.

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
-----------------	-----------------	--

FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO:	Name: _____	Address: _____
	Pension	\$ _____	PAID TO:	Name: _____	Address: _____
	Vacation/ Holiday	\$ _____	PAID TO:	Name: _____	Address: _____
	Training Other	\$ _____ \$ _____	PAID TO:	Name: _____	Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
-----------------	-----------------	--

FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO:	Name: _____	Address: _____
	Pension	\$ _____	PAID TO:	Name: _____	Address: _____
	Vacation/ Holiday	\$ _____	PAID TO:	Name: _____	Address: _____
	Training Other	\$ _____ \$ _____	PAID TO:	Name: _____	Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
-----------------	-----------------	--

FRINGE BENEFITS	Health & Welfare	\$ _____	PAID TO:	Name: _____	Address: _____
	Pension	\$ _____	PAID TO:	Name: _____	Address: _____
	Vacation/ Holiday	\$ _____	PAID TO:	Name: _____	Address: _____
	Training Other	\$ _____ \$ _____	PAID TO:	Name: _____	Address: _____

Submitted: Contractor / Subcontractor	By: Name / Title
---------------------------------------	------------------

Supplemental statements must be submitted during the progress of work should a change in rate of any of the classifications be made.



PUBLIC WORKS PAYROLL REPORTING FORM

(Reduced by Antioch Unified Public Agency)

(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) N O N O F O F I T H O O L E M F I N T O N S	(3) WORK CLASSIFICATION	(4) FOR WEEK ENDING							(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS										(9) NET WBS PAID FOR WEEK	CHECK NO.			
			M	T	W	TH	F	S	S				FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION	TRAINING	FUND ADMIN	DUES			TRV/ SUBS	SAVINGS	OTHER*

Form A 1-131 (New 2-80) S = Straight Time O = Overtime SDI = State Disability Insurance

with the authority to act for and on behalf of _____ (name of business and/or contractor)

are the originals or true, full and correct copies of the originals which depict the payroll (description, no. of pages)

Signature: _____

Date: _____

A public entity may require a more strict and/or more extensive form of certification.

x:\projects\labor compliance\appendix a.docx

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: CARPENTER AND RELATED TRADES

DETERMINATION: NC-23-31-1-2008-1
ISSUE DATE: August 22, 2008

EXPIRATION DATE OF DETERMINATION: December 30, 2009** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All Localities within Alameda, Alameda, Alameda, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madras, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yuba, and Yuba Counties.

CLASSIFICATION (Journey/Person)	Employer Payments				Straight - Time		Overtime Hourly Rate				
	Basic Hourly Rate	Health and Welfare	Vacation Holiday ¹	Training Other Payments ²	Hours	Total Hourly Rate	Daily	1 1/2X	2X	Sunday and Holiday	
^b Area 1 Carpenter Hardwood Floorlayer, Power Saw Operator, Saw Filer, Shingler, Steel Scaffold and Steel Shoring Erector	\$34.75	9.09	3.36	0.48	1.94	\$ 54.670	\$72.045	\$89.420	\$72.045	\$89.420	\$89.420
^b Area 2 Carpenter Hardwood Floorlayer, Power Saw Operator, Saw Filer, Shingler, Steel Scaffold and Steel Shoring Erector	\$28.87	9.09	3.36	0.48	1.94	\$ 48.780	\$63.225	\$77.660	\$63.225	\$77.660	\$77.660
^b Area 3 ¹ Carpenter Hardwood Floorlayer, Power Saw Operator, Saw Filer, Shingler, Steel Scaffold and Steel Shoring Erector	\$27.52	9.09	3.36	0.48	1.94	\$ 47.440	\$61.200	\$74.960	\$61.200	\$74.960	\$74.960
^b Area 4 ¹ Carpenter Hardwood Floorlayer, Power Saw Operator, Saw Filer, Shingler, Steel Scaffold and Steel Shoring Erector	\$27.67	9.09	3.36	0.48	1.94	\$ 47.590	\$61.425	\$75.260	\$61.425	\$75.260	\$75.260

DETERMINATION: NC-23-31-1-2008-1A
ISSUE DATE: August 22, 2008

EXPIRATION DATE OF DETERMINATION: June 30, 2009** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All Localities within Alameda, Alameda, Alameda, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madras, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yuba, and Yuba Counties.

CLASSIFICATION (Journey/Person)	Employer Payments				Straight - Time		Overtime Hourly Rate				
	Basic Hourly Rate	Health and Welfare	Vacation Holiday ¹	Training Other Payments ²	Hours	Total Hourly Rate	Daily	1 1/2X	2X	Sunday and Holiday	
Bridge Builder: Highway Carpenter	\$34.75	9.09	3.36	0.48	1.94	\$ 54.670	\$72.045	\$89.420	\$72.045	\$89.420	\$89.420

Footnote and Allwright listed on page 3-4A

(Recognized Holidays and Substantial Payment footnotes also listed on page 3-4A)

SAMPLE

Per Title 8 of the California Code and Regulations Section 16429, please be advised that this project falls under Labor Compliance Regulations. The Labor Compliance Program contact information for this project is:

Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715

Contact:

Email:

This project is subject to the payment of prevailing wage. The prevailing wage rates for this project fall under determination XXdeterminationXX. To obtain information regarding the wages due for the project, please go to www.dir.ca.gov.

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

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 _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Appendix B
LABOR COMPLIANCE SITE VISIT INTERVIEW FORM

Job Site-General Contractor- Project

Job Site-General Contractor- Project

Job Site-General Contractor- Project

Contractor/Subcontractor: _____

Time of Interviews: _____ Weather Conditions: _____

Prevailing Wage info Posted LCP information Posted

Craft:

Carpenter Laborer Cement Operator Drywall Electrician Tile Setter Plumber

Glazier Painter Taper Plasterer Roofer Sheet Metal Tile Finisher Pipe Tradesman

Other _____

Trade Level: Journeyman Apprentice

Apprentice Level and Program: _____

Person Interviewed: _____

SS#: _____ Hourly Pay Rate: _____ Benefits: _____

Have you performed overtime, Saturday or Sunday work? _____ Have you worked nights? _____

Total number of workers observed on the visit: _____

Type of work observed: _____

Was the worker believable? Yes No

Observations and other work being performed on site: _____

Comments: _____

Did the superintendent or foreman accompany you on the site? Yes No

Interview Conducted by: _____

Signed: _____ Date: _____

Appendix C
Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715

Email:

SAMPLE 10-DAY LETTER

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Re: XXX

To Whom It May Concern:

As you are aware the District is required to conduct its Labor Compliance Program on the above referenced project. As the XXXXXXXXXXXXXXXX project is now closing, it is necessary that all information be submitted and cleared prior to the release of retention. This is our **FINAL** request for information and clarification from your company. We have previously requested this information and these items remain outstanding. This will be your final opportunity to clarify and correct these matters before final penalty recommendations are forwarded to the California Department of Industrial Relations.

The California Labor Code mandates that penalties be assessed for all violations, even if corrections are ultimately made. In some instances, penalties may be reduced or waived, but only under certain specific conditions.

The following information is required:

1. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
2. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Pursuant to Labor Code Section 1776, you have ten days from the date of this notice to provide this documentation to the District. If you fail to do so, the District is mandated by law to impose penalties of \$25 per day per worker until all requested documentation is received, even if the information you eventually submit is found to be correct.

Sincerely,

NAME
Labor Compliance Program, Analyst

Labor Compliance Program Regulations – APPENDIX D

REQUEST FOR APPROVAL OF FORFEITURE -- Suggested format

1. AWARDING BODY / THIRD PARTY LCP:

Name and Contact Information:	Date of Request:
Name and Contact Information for Awarding Body if different from LCP:	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 Oceangate 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.

Appendix E

Las Gallinas Valley Sanitary District 300 Smith Ranch Road San Rafael, CA 94903-1929 Phone: 415-472-1734 Fax: 415-499-7715	
Attn: Susan McGuire	
	Date:

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 **Las Gallinas Valley Sanitary District** 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:

- _____ Failure to pay correct prevailing wage rate Section 1775
- _____ Failure to pay correct overtime Section 1813
- _____ Failure to submit certified payrolls and other requested documents within timeframe set forth by statute Section 1776

Explanation:

The Labor Compliance Program has determined that the total amount of wages due is: \$0.00

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: \$ -0-

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1777.5 is: \$ -0-

LABOR COMPLIANCE PROGRAM

By: _____
Analyst

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:**

Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715
Attn Susan McGuire

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.

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:

**Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715
Attn. Susan McGuire**

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 \$ -0-.

Distribution:

General Contractor - certified and regular mail

Subcontractor - certified and regular mail

Public Agency - regular mail only

Appendix F

LABOR COMPLIANCE PROGRAM Las Gallinas Valley Sanitary District 300 Smith Ranch Road San Rafael, CA 94903-1929 Phone: 415-472-1734 Fax: 415-499-7715 Attn: Susan McGuire	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

Public Agency/Awarding Body:
Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715

Project Identification:

General Contractor:
Subcontractor:

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 _____
Also enclosed please find the following:

and received by this office on or about _____

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

LABOR COMPLIANCE PROGRAM

By: _____

cc: **General Contractor:**
Subcontractor:

Appendix G

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments Las Gallinas Valley Sanitary District 300 Smith Ranch Road San Rafael, CA 94903-1929 Phone: 415-472-1734 Fax: 415-499-7715 Attn: Susan McGuire	(SEAL)
Date:	In Reply Refer to Case No.:

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

Appendix G

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:

Las Gallinas Valley Sanitary District
300 Smith Ranch Road
San Rafael, CA 94903-1929
Phone: 415-472-1734 Fax: 415-499-7715

Attn: Susan McGuire

Appendix G

Request to Review Evidence

To: _____

From: _____

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.: _____

