

# **California Uniform Construction Cost Accounting Commission**

**Meeting Agenda  
Wednesday, September 9, 2015  
10:00AM – 2:00PM**

**Teleconference Number: (888) 278-0296  
Participation Code: 221558**

## **Locations**

### **California State Controller's Office**

300 Capitol Mall  
6<sup>th</sup> Floor, Terrace Room  
Sacramento, CA 95814

### **Santa Cruz Harbor**

135 5<sup>th</sup> Avenue  
Santa Cruz, CA 95062

### **San Diego County Office of Education**

Commercial Warrants & AP  
Room 608  
6401 Linda Vista Road  
San Diego, CA 92111

### **Pomona Unified School District**

800 S. Garey Ave.  
Room 117  
Pomona, CA 91766

**Attendance**

California Uniform Construction Cost Accounting Commission		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
George Hicks, Chair	Director of Public Works	City of Fairfield – Cities
Linda Clifford, Vice Chair	Chief Financial Officer	C.C. Myers, Inc. – Contractors State License Board
Guiselle Carreon, Secretary	Commercial Warrants and Accounts Payable Manager	San Diego County Office of Education – School Districts (ADA <25,000)
Jeff Armstrong	Apprenticeship Director	Northern California Laborers' Union – Labor
Eddie Bernacchi	President	Politico Group – Subcontractors
Robert Campbell	Auditor-Controller	County of Contra Costa – Counties
Will Clemens	Public Works Department Administrator	County of San Luis Obispo – Counties
David Cruce	VP- Estimating, Business Development & Materials	Papich Construction Co., Inc. – General Contractors
Cesar Diaz	Legislative Director	State Building and Construction Trades Council – Labor
Lisa Ekers	Port Director	Santa Cruz Harbor – Special Districts
Steven L. Hartwig	Director of Public Works	City of Vacaville – Cities
Michael R. Hester	President	McGuire and Hester – Subcontractors
Nathaniel Holt	Director of Purchasing and Contracts	Pomona Unified School District – School Districts (ADA >25,000)
David A. McCosker	Chairman of the Board	Independent Construction Co. – General Contractors

State Controller's Office		
<i>Name</i>	<i>Position</i>	<i>Representing</i>
Anita Dagan	Manager	Local Government Policy Section
Jenny Jones	Supervisor	Local Government Policy Section
Robert Szabo	Fiscal Analyst	Local Government Policy Section

## **Meeting Agenda**

- 1. Call to Order**
  - a. Voting by Roll Call
- 2. Introductions**
- 3. Approval of the Minutes (Refer to attachment Item 3)**
  - a. Meeting June 25, 2015
- 4. Commission Update (Refer to attachment Item 4)**
  - a. Participating Agencies
    - i. New
  - b. Funding Update
  - c. Inquiry Update
- 5. Public Comment**
- 6. Staff Comments/Requests**
- 7. Reports of Officers**
  - a. Chair
  - b. Vice Chair
  - c. Secretary
- 8. Committee Reports (Refer to attachment Item 8)**
  - a. Letter mailed from CUCCAC to CIFAC/Gordian Group
- 9. Commissioner Comments/Requests**
- 10. Old Business**
  - a. Frequently Asked Questions (FAQ) – Review new question(s) and approve modified language
  - b. Welcome Letter – Review additional proposed language
- 11. New Business**

- a. CIFAC's complaint against the County of Ventura's "Santa Clara Avenue Storm Drain Installation" project
- b. CIFAC's complaint against the City of Winters' "Railroad Avenue" project(s)
- c. Review of bid limits (PCC 22020)
- d. Election of Officers

**12. Next Meeting**

**13. Adjournment**

If you would like further information regarding this meeting or require special accommodation for attending this meeting, please contact:

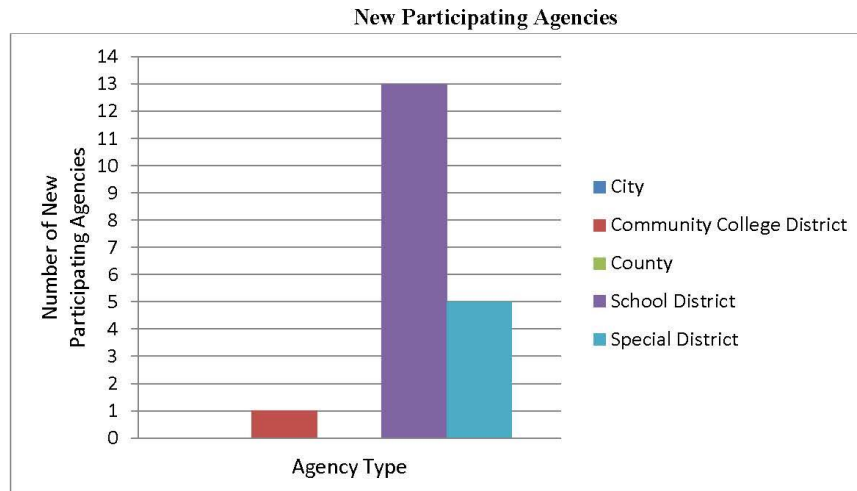
State Controller's Office  
Local Government Policy Section  
[localgovpolicy@sco.ca.gov](mailto:localgovpolicy@sco.ca.gov)



Commission Update  
For the period June 1, 2015 – August 28, 2015

**4a. Report on new participating agencies**

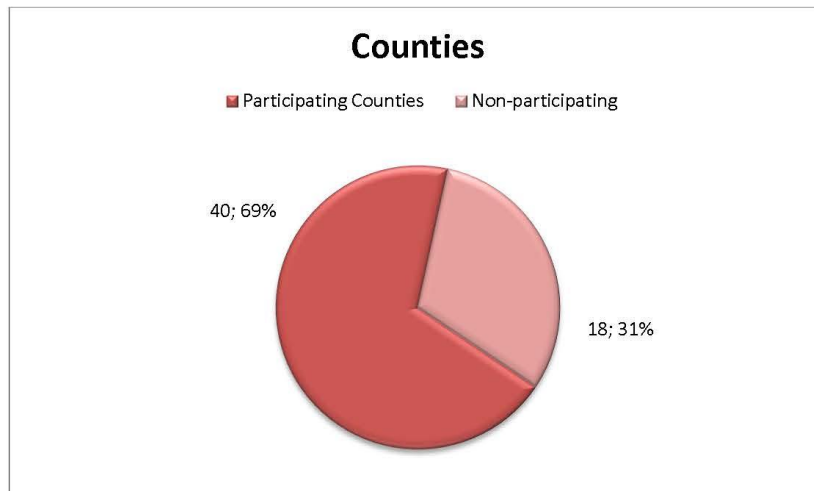
**19** new agencies have opted into the CUPCCAA, bringing the number of agencies participating in the Act to 915. Reconciliation of participating agencies by SCO is continually ongoing.



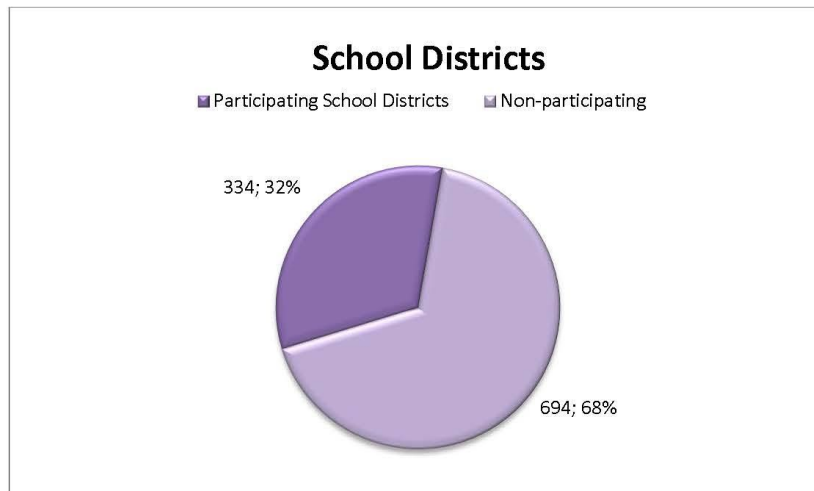
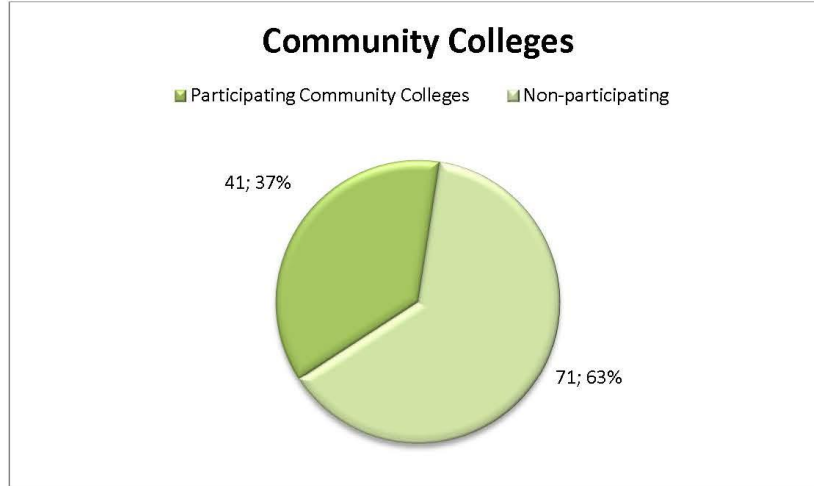
Commission Update  
For the period June 1, 2015 – August 28, 2015

	<b>Agency</b>	<b>Date Opted In</b>	<b>Agency Type</b>
1	Union School District	4/14/2014	School District
2	Ventura Community College District	2/10/2015	Community College District
3	Shandon Joint Unified School District	5/26/2015	School District
4	Pierce Joint Unified School District	3/12/2015	School District
5	Sutter County Superintendent of Schools	2/11/2015	School District
6	West Side Union School District	6/25/2015	School District
7	Merced Union High School District	6/10/2015	School District
8	Solana Beach School District	4/23/2015	School District
9	College School District	7/01/2015	School District
10	Napa County Flood Control and Water Conservation District	7/14/2015	Special District
11	Borrego Springs Unified School District	7/22/2015	School District
12	Pioneer Union School District	6/25/2015	School District
13	Gold Mountain Community Services District	6/19/2015	Special District
14	Cameron Park Community Services District	7/15/2015	Special District
15	Siskiyou Power Authority	6/23/2015	Special District
16	Siskiyou County Flood Control and Water Conservation District	6/23/2015	Special District
17	Aromas-San Juan Unified School District	6/19/2013	School District
18	Vacaville Unified School District	6/11/2015	School District
19	Siskiyou Union High School District	8/12/2015	School District

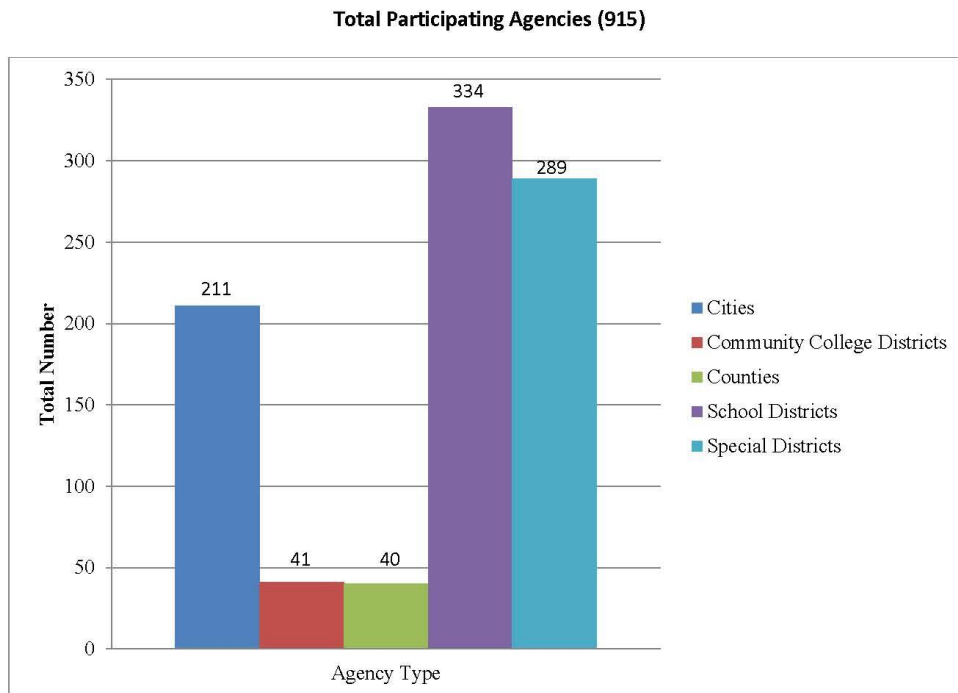
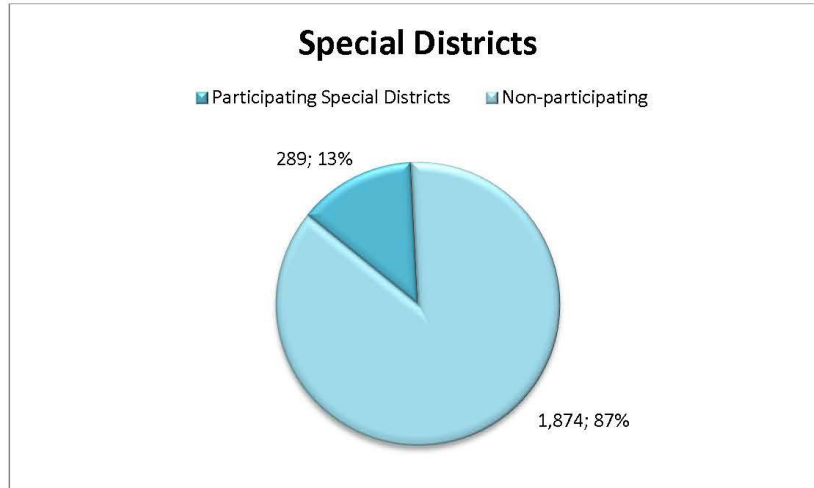
Commission Update  
For the period June 1, 2015 – August 28, 2015



Commission Update  
For the period June 1, 2015 – August 28, 2015



Commission Update  
For the period June 1, 2015 – August 28, 2015



Commission Update  
For the period June 1, 2015 – August 28, 2015

**4b. Funding update**

The Commission has \$1,354.90 of unrestricted donations available for its use.

	<b>Conditional</b>	<b>Unconditional</b>	<b>Total</b>
Beginning Balance 6/1/2015	\$ 0	\$ 2,747.92	\$ 2,747.92
Expenditures			
Travel Expense Claims	\$ 0	\$ 1,393.02	\$ 1,393.02
Ending Balance 8/28/2015	\$ 0	\$ 1,354.90	\$ 1,354.90



**California Uniform Construction Cost Accounting Commission**

State Controller's Office – Division of Accounting & Reporting  
3301 C Street, Suite 500, Sacramento, California 95816  
[http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html)

June 29, 2015

CATHRYN A. HILLIARD, Executive Director  
CONSTRUCTION INDUSTRY FORCE ACCOUNT COUNCIL (CIFAC)  
837 Arnold Drive, Suite 200  
Martinez, CA 94553

PATRICK WHALEN, Legislative Advocate, Attorney at Law  
Re. "The GORDIAN GROUP"  
ELLISON WILSON ADVOCACY, LLC  
1725 Capitol Avenue  
Sacramento, CA 95811

RE: CIFAC REQUEST FOR CLARIFICATION, July 28, 2014  
Job Order Contracting, County of Ventura

Dear Ms. Hilliard and Mr. Whalen:

Thank you for your requests for clarification received by the California Uniform Construction Cost Accounting Commission. We have reviewed your concerns with regards to the County of Ventura's use of Job Order Contracts related to the informal bid limits and processes as governed by the PCC and the Act and under the supervision of the CUCCAC.

TO: Ms. Cathryn Hilliard, CIFAC &  
Mr. Patrick Whalen, Ellison Wilson Advocacy, LLC, Re. "The Gordian Group"  
June 29, 2015  
Page 2 of 2

Our considered opinion is as follows:

- *The issuance of an original JOC must be done pursuant to the Act. Specifically the JOC contracting procedures must comply with the notification, advertisement and award provisions of the Act.*
- *There is no limitation to JOC contracting imposed by the Act for work which does not qualify as a "Project" under PCC 2202(c).*

Where agencies use informally bid job order contracts (JOC), they must comply with Section 22030-22045 of the Public Contract Code (PCC). JOC task orders for work which qualifies as a "public project" as defined by Section 22002 of the PCC must not exceed the informal bid limit (currently \$175,000) when informally bid.

The Act does not preclude the issuance of a JOC with task orders in excess of the informal bid limit. In this case, any JOC which includes worked defined as a "public project" with a task order value in excess of the informal bid limit must be bid formally in compliance with the requirements of PCC section 22037.

Should you have any other questions regarding this matter, please do not hesitate to contact me.

Sincerely,



George Hicks  
Chairman, CUCCAC

GH:ljc



**21. If signatory agencies are not following the advertising requirements in the Act, will the Commission address those agencies? Can a complaint be brought to the Commission?**

Yes, a complaint can be brought to the Commission. PCC 22042 lists the categories of complaints that the Commission can consider.

**22. PCC 20112 specifically requires school districts to advertise twice for a two week period, while PCC 22037 requires advertising once, 14 days in advance of the date of opening of bids. Which code applies to school districts?**

PCC 22037. When the Act is in conflict with any other code, the Act shall supersede. Districts may choose to maximize their outreach by continuing to advertise twice.

**23. May an agency contract separately for like work at the same site at the same time using the under \$45,000 Force Account method?**

Per section 22033 of the Public Contract Code, "It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding". Separating "like work" would only be permitted ~~Only~~ as long as the total of all the "like work" jobs is less than \$45,000. ~~Otherwise the work would be required to be advertised and bid according to the provisions of the Act (i.e. bid informally if the total amount is less than \$175,000 and bid formally if the total amount exceeds \$175,000). falls under the informal contract limit of \$175,000 or the formal bidding process~~

**24. May an agency bid out 2 separate projects that occur at the same time and site, but are different types of work?**

Yes, there is no violation if the work is being competitively bid. ~~under PCC 20118.4.~~ If the agency wants to use the negotiated or informal bidding processes, the agency must apply the appropriate limits to each of the projects. Each project must be separate in scope. Projects may not be separated by trade to avoid bidding. If the total of all jobs is greater than \$45,000; the informal or formal bid limit will apply.

**25. How does an agency process change orders when the standard code conflicts with the Act?**

For contracts below \$45,000, the total cost of the contract may not exceed \$45,000. For informal contracts, under the Act, the limit is \$175,000. If the agency is a school district, there may be additional limits and it is recommended the agency consult with their legal counsel for interpretation of change order limits.

**26. Does an agency by opting into the Act, automatically bring**

- a) all departments of the agency into the Act?
- b) ~~all districts under control of the board into the Act?~~

When a local agency elects to become subject to the uniform construction cost accounting procedures, the entire legal entity is considered subject to the Act and no divisions or departments will be exempt.

b) all districts under control of the board into the Act?

Special Districts, which are governed by a board of supervisors or city council, are only subject if a separate election is made for each special district.

**27. PCC section 22034 requires that participating agencies adopt an Informal Bidding Ordinance. What do school and special districts that cannot adopt Ordinances do to comply?**

For those agencies who cannot legally adopt an Ordinance, a Board Policy / Administrative Regulation or other legally applicable action of the governing board may be substituted. Such substitute shall include the provisions of PCC section 22034 (a) through (f). If an Ordinance is adopted, it does not take effect until 30 days following its second reading. If a substitute to an Ordinance such as Board Policies / Administrative Regulations are utilized which go into effect immediately upon adoption, no 30-day waiting period is required before utilizing the procedures outlined in the Act.

Date

Agency

Name

Address

City, CA Zip

**RE: Welcome New Participating Agency**

Dear Mr. /Ms. Name:

The State Controller's Office (SCO) received the **Governing Board's** Resolution No. **xxxx**, dated **(date of resolution)**, electing to become a participating member of the California Uniform Public Construction Cost Accounting Act (Act) pursuant to Public Contract Code (PCC) section 22030. The California Uniform Construction Cost Accounting Commission (Commission) is very pleased to welcome you as a new member.

The Commission, created by PCC 22010 in 1983, is the governing body for the Act. Comprised of fourteen members, the Commission works to ensure the equitable application of the Act. One member is appointed by the State Contractors' License Board and thirteen members are appointed by the Controller. Seven members represent public agencies: cities, counties, school districts, and special districts. Six members represent professional services: contractors, subcontractors, and laborers.

The Commission is responsible for developing uniform public construction cost accounting policies and procedures. Force account and bidding rules are periodically reviewed by working with the legislature, participating agencies, laborers, and contractors to adapt the Act to evolving industry standards. Compliance and cost accounting reviews are conducted by the Commission with independent accounting consultants as necessary. In addition, the Commission conducts meetings open to the public and maintains the Commission's webpage on the SCO web site.

As a participating member of the Act, there are many advantages, including expedited bid processes and increased bid limits. Agencies joining the Act mid-year or having a fiscal year other than a calendar year should advertise for their contractors' list as soon as practical, then re-advertise in November each year as currently required as outlined on page 6 of the Cost Accounting Policies and Procedures Manual.

To better help you understand and utilize all aspects of the Act, please visit the SCO web site at [http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html). There you will find the Cost Accounting Policies and Procedures Manual, contact information for SCO staff and Commissioners, Commission meeting agendas and minutes, FAQ's, and other information including sample document templates to adapt to

your particular needs. In the event you have questions or concerns regarding the Act, you are encouraged to contact one of the Commissioners.

On behalf of the Commission and SCO staff, I congratulate you on your election to participate in the Act. We welcome your questions and concerns, and look forward to serving you.

Sincerely,

GEORGE HICKS, Chair



## California Uniform Construction Cost Accounting Commission

State Controller's Office – Division of Accounting & Reporting

3301 C Street, Suite 500, Sacramento, California 95816

[http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html)

Mr. Jeff Pratt  
Director of Public Works  
Ventura County  
800 S. Victoria Avenue  
Ventura, CA 93009

August 31, 2015

SUBJECT: Notice of Review

Dear Mr. Pratt,

The purpose of this letter is to advise you that the California Uniform Construction Cost Accounting Commission (CUCCAC or Commission) has received the attached complaint from the Construction Industry Force Account Council (CIFAC) alleging that your agency has violated section 22031(e) of the Public Contract Code (PCC) on the Santa Clara Avenue Storm Drain Installation.

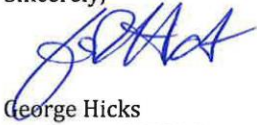
I called your office Thursday August 20<sup>th</sup> and left a message for you. Mr. David Fleisch returned the call on Monday August 24<sup>th</sup>. As discussed with Mr. Fleisch in our conversation, PCC section 22043 requires the CUCCAC to review all complaints filed and the CUCCAC has scheduled a hearing on this matter at our Commission meeting in Sacramento on September 9, 2015. The Commission hearing will be held during the Commission meeting scheduled to begin at 10:00 a.m. and be held at the following location:

California State Controller's Office  
300 Capitol Mall  
6th Floor, Terrace Room  
Sacramento, CA 95814

In order to adequately review this matter and consider all relevant facts, I request that you provide a response to the Commission regarding this CIFAC complaint. You may provide your response in writing, or through oral testimony at the Commission hearing, or both. Please provide your response prior to the close of the September 9, 2015 hearing on this item.

If you have any questions regarding this item, please feel free to contact State Controller/Commission staff member Mr. Robert Szabo at (916)327-8905 or by email at [RSzabo@sco.ca.gov](mailto:RSzabo@sco.ca.gov). Thank you in advance for your cooperation in resolving this matter.

Sincerely,



George Hicks  
Chairman, CUCCAC

Cc: Mr. David Fleisch, Ventura County Public Works  
Robert Szabo, SCO





Steve Harris, President

Dave Thomas, Vice President

Bill Koponen, Secretary

Mike Hester, Treasurer

August 18, 2015

George Hicks, Chair  
California Uniform Construction Cost Accounting Commission  
c/o State Controllers' Office  
Local Government Policies Section  
P.O. Box 942850  
Sacramento, CA 94250

RE: County of Ventura  
Santa Clara Avenue Storm Drain Installation

Dear Chairperson Hicks and Commissioners:

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that represents various members of the public works construction industry throughout California. We work to ensure compliance with the California Public Contract Code by public entities. Thus, we qualify as an interested party per the California Uniform Construction Cost Accounting Act requirements.

We request that the Commission review the County of Ventura, "Santa Clara Avenue Storm Drain Installation" project. It is our belief that they have exceeded their force account limit, as established in Public Contract Code Section 22032 (a). This violation occurred due to the Road Commissioner's failure to publicly declare that this work was to be performed by force account prior to commencing work. This is a requirement under PCC 22031 (e).

Here is the sequence of events:

- On April 20, 2015, CIFAC received a report, and photographs, of County of Ventura crews building a new culvert along Santa Clara Avenue at Eucalyptus Drive. It appears that the work began on April 15<sup>th</sup> with the installation of K-rail.
- Bacon spoke to Raul Gallo, Road Maintenance Engineering Manager, on April 20, 2015, and he confirmed the work in progress by county forces and said the work would take eight (8) weeks.
- Bacon contacted the County of Ventura again on April 21, 2015, and inquired if there was a Declaration of Intent to Perform Road Work for this project under Road Commissioner authority. The Management Assistant, PWA Transportation Dept., searched and could not locate the document.
- Bacon contacted them again on April 21, 2015 asking for the copy of the Declaration and was told by the Management Assistant, PWA Transportation Dept., it is "awaiting signature".
- When Bacon spoke to Raul Gallo, Road Maintenance Engineering Manager, on April 22, 2015 he said "I don't care" talk to my boss and his intent is to continue the work.
- On April 22, 2015, David Fleisch Transportation Department Director, had a conversation with Bacon stating possibilities of why the work was not declared. Bacon suggested an informal bid process (or formal, if over \$175,000) could be used for the work to be in compliance with CUCCAA.
- On April 26, 2015, David Fleisch, Transportation Department Director, said they pulled off the project and they are going to continue the work as noted on the Declaration of Intent to Perform Work that was dated on April 20, 2015. He admitted it was after the work began and he also stated "but they have now remedied it."



County of Ventura  
Santa Clara Avenue Storm Drain Installation-Formal Complaint  
Page 2

- The Declaration of Intent to Perform Road Work was “dated” April 20, 2015, and actually “signed” on April 21, 2015, after the work started on April 15, 2015.
- The County of Ventura, Declaration of Intent to Perform Road Work states “**the following work is currently scheduled to begin May 4, 2015, on Santa Clara Avenue.**”
- On May 1, a report from the field listed K-rail and traffic control signs, service tanks, active stock piles of materials remained at the site and noted it looked like a project in progress. This work began on April 15, 2015, and was confirmed by a representative of the County as “in progress” on April 20, 2015.
- The Construction Costs noted on the Declaration is in the amount of \$160,000 which is above the force account limit of \$45,000.

It is our opinion that the County has not met the requirement of publicly declaring the work prior to the commencement, that they are thus by their own records in violation of their \$45,000 force account threshold. The intent of the Act and its requirements are to allow for equitable accounting and for transparency to the industry and the general public.

We have attached the County of Ventura, Declaration of Intent to Perform Road Work, dated April 20, 2015, and photographs that were received by Bacon on April 20, 2015 of the work already in progress. Please note the “Eucalyptus Drive” sign as it is mentioned in the Limits on the Declaration. We have also attached a copy of the complaint to the County of Ventura, sent via certified mail as required. Please feel free to contact me (800) 755-3354 or Shari Bacon, Southern Region Field Representative (951) 214-9196, should you have any questions. We appreciate the Commission’s attention to this complaint.

Sincerely,



Cathryn Hilliard  
Executive Director  
Construction Industry Force Account Council (CIFAC)

Attachments: Notice of Formal Complaint to CUCCAC addressed to the County of Ventura  
8 photographs of the Santa Clara Avenue Storm Drain Installation received on April 20, 2015  
County of Ventura, Declaration of Intent to Perform Road Work, dated April 20, 2015







Steve Harris, President

Dave Thomas, Vice President

Bill Koponen, Secretary

Mike Hester, Treasurer

August 18, 2015

Jeff Pratt, Director  
Public Works/Road Commissioner  
800 S. Victoria Avenue  
Ventura, CA 93009

Sent via Certified Mail

Subject: Violation of the California Uniform Construction Cost Accounting Act  
Oxnard Area, Santa Clara Avenue Storm Drain Installation

Dear Mr. Pratt,

This letter is to serve as notice to you, per California Public Contract Code (PCC) Section 22043 (b) that we are filing a formal complaint with the California Uniform Construction Cost Accounting Commission that you are in violation of the Act. We assert that you have violated your force account limit of \$45,000 on the Santa Clara Avenue Storm Drain Installation project by not publicly declaring the intent to self-perform this work prior to the commencement of work, as required by PCC Section 22031 (e). We are requesting that the California Uniform Construction Cost Accounting Commission review this project.

The Construction Industry Force Account Council is a non-profit organization that represents members of the public works construction industry.

Sincerely,

Cathryn Hilliard  
Executive Director

cc: Michael Powers, County Administrative Officer



# county of ventura

**PUBLIC WORKS AGENCY**  
**JEFF PRATT**  
 Agency Director

April 20, 2015

Watershed Protection District  
 Tully K. Clifford, Director  
 Transportation Department  
 David L. Fleisch, Director

Engineering Services Department  
 Herbert L. Schwind, Director

Water & Sanitation Department  
 David J. Sasek, Director

Central Services Department  
 Janice E. Turner, Director

## **Declaration of Intent to Perform Road Work** Public Contract Code section 22031(b) (2)

The Ventura County Public Works Agency declares its intent to perform the following road construction or reconstruction work using the alternative procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 of the Public Contract Code as authorized by Public Contract Code section 22031(b) (2). The following work is currently scheduled to begin May 4, 2015, on Santa Clara Avenue.

Road Name	Limits	Construction Costs	Description of Work
Santa Clara Avenue	905' S of Eucalyptus to Central Avenue	\$160,000	Installation of Corrugated metal pipe storm drain

  
 Jeff Pratt  
 Agency Director  
 Road Commissioner



# county of ventura

**PUBLIC WORKS AGENCY**  
**JEFF PRATT**  
Agency Director

August 31, 2015

George Hicks, Chair  
California Uniform Construction Cost Accounting Commission  
c/o State Controller's Office  
Local Government Policies Section  
P.O. Box 942850  
Sacramento, CA 94520

Watershed Protection District  
Tully K. Clifford, Director  
Transportation Department  
David L. Fleisch, Director  
Engineering Services Department  
Herbert L. Schwind, Director  
Water & Sanitation Department  
David J. Sasek, Director  
Central Services Department  
Janice E. Turner, Director

**SUBJECT CONSTRUCTION INDUSTRY FORCE ACCOUNT COUNCIL  
COMPLAINT REGARDING THE COUNTY OF VENTURA  
SANTA CLARA AVENUE STORM DRAIN INSTALLATION**

Dear Chairperson Hicks and Commissioners:

This letter is in response to the Construction Industry Force Account Council (CIFAC) complaint of violation by the County of Ventura Public Works Agency (PWA) of the California Uniform Construction Cost Accounting Act (CUCCAA) dated August 18, 2015 and agendized for your September 9, 2015 meeting.

The project in question is the Santa Clara Avenue Storm Drain Installation. This is work in preparation for a federally funded bicycle and pedestrian project expected to be out to bid in June, 2016. The storm drain installation replaced an existing open drainage ditch to easier facilitate the construction of the bicycle lanes, and was not included in the funded scope of the Highway Safety Improvement Fund funded project. Further, we wanted to complete these drainage modifications prior to the expected weather for the 2015/16 winter season. The work was within the capabilities of the Public Works Agency Transportation Department (PWATD).

In July, 2014, the PWATD Director, David Fleisch, worked with the County of Ventura County Counsel's office to ensure that the PWATD declaration of intent procedure was in accordance with the CUCCAA. At this time, several projects were noticed. Projects noticed can be found at: <http://pwa.ventura.org/transportation-department/transportation-active-projects>. This project was originally scheduled on the notice list dated July 21, 2014 by the PWATD Operations and Maintenance Division Manager Mr. Raul Gallo, but was removed by Mr. Fleisch because it was not planned to begin until 6 months after the other projects. Another notice was posted on April 14, 2015, the day before this project was to begin, which is when the project should have been noticed. However, it was in advertently left off the declaration.

Work began on Wednesday April 15, 2015 with 148 labor hours expended to mobilize, and install K-rail and other traffic-control devices. No work was completed Thursday or



Hall of Administration L # 1600

800 S. Victoria Avenue, Ventura, CA 93009 • (805) 654-2018 • FAX (805) 654-3952 • <http://www.ventura.org/pwa>





Friday. On Monday, April 20, 2015, the crew was on site to begin work. As stated in the complaint, Mr. Gallo was contacted by Ms. Shari Bacon from CIFAC regarding the project, informing him that it had not been noticed. Mr. Gallo consulted with Mr. Fleisch, and it was determined that the project had in fact not been noticed, although at the time the project began, they both thought it had been. Mr. Fleisch directed that the project be stopped until appropriate options and remedies could be considered. The crew was pulled from the site and no work was done (except one person out on the site on April 21 to review materials at the site and ensure the site was safe and organized) until May 5, 2015.

Between April 20 and April 24, Mr. Fleisch spoke with Ms. Bacon and received her input regarding CIFAC's concerns and desires and consulted with the County Counsel's office to request research on legal requirements and remedies. Also, Mr. Fleisch had a Declaration of Intent to Perform Work for this project prepared and signed by the PWA Director/Road Commissioner Jeff Pratt. It was e-mailed to Ms. Bacon on April 21, 2015 at 3:17 pm and posted on April 21, 2015 at 3:55 pm. Upon completion of the review with County Counsel, a determination was made that no specific remedy is required if a declaration of intent is not noticed properly. With this in mind, on Monday, April 27, Mr. Fleisch contacted Ms. Bacon and informed her that the County would commence work again on the project the week of May 4, 2015, having now properly noticed the project.

There were 238 labor hours expended (mobilization, installation of K-rails and traffic-control devices, and material preparation) on April 15 and 20, and 10 hours expended on April 21 to review materials at the site and ensure the site was safe and organized. No other work was performed until the project was restarted on May 5, 2015. The cost for the effort expended between April 15 and April 21 was \$19,951.37, which includes labor, heavy equipment, and miscellaneous equipment rentals. This is less than the \$45,000 limit. Once properly noticed, the project was restarted and completed on August 5, 2015.

The County of Ventura Public Works Agency takes its responsibilities seriously regarding compliance with all local, state, and federal laws and regulations. Attached is the PWATD internal process which was reviewed and updated after this incident to ensure appropriate declarations are completed and posted prior to work being performed.

Sincerely,



Jeff Pratt  
Director

cc: Michael Powers, CEO

Attachment: PWATD internal declaration process

**TRANSPORTATION DEPARTMENT**

**Name of Process:** Declaration/Notice of Intent to Perform Work (O&M)

Effective: 08-25-15

Revised: 08-25-15

Drafted: 04-14-2015

**Description of Process**

<b>Step</b>	<b>Responsible Party</b>	<b>Description</b>
1	Engineering Manager – Operations & Maintenance	Initiates the draft Notice of Intent to Perform Work utilizing the appropriate template: <a href="#">Declaration of Intent to Perform Road Work</a> <ul style="list-style-type: none"> <li>Public projects as defined below listed in the draft are greater than \$45,000.</li> <li>Saves a draft of the letter (Word file) as well as any attachments in the appropriate file (see #11 below).</li> <li>Sends OAIII/MAIII a hyperlink of the draft Declaration.</li> </ul>
2	Office Assistant III (SOY)/ Management Assistant III	1. Receives hyperlink of the draft from the Originator. Turn tracking on, proof, and make any changes that are necessary to draft. Add in dates construction will begin for each project if available. 2. Send back to Originator via hyperlink to review changes.
3	Engineering Manager – Operations & Maintenance	Reviews draft, inserts dates for construction if not already given; either accepts or makes other changes. Sends back to OAIII/MAIII via hyperlink for finalization.
4	OA III (SOY)/ MA III	OAIII/MAIII sends hyperlink of Declaration to PWATD Director for review.
5	PWATD Director	Approves for signature by PWA Director.
6	MA III	Prints out Declaration and sends to PWA Director (Jeff Pratt/via Clerical Services Manager Glenna Inouye) for signature.
7	PWA Director	Signs and returns to MA III (via Glenna Inouye)
8	MA III	Scans signed hard copy of Declaration and saves to appropriate file.
9	MA III	Posts on the <a href="#">PWATD website</a> : <ul style="list-style-type: none"> <li>Send Agnes Kish (Engineering Technician IV) a link to the scanned Declaration for posting to website</li> <li>Post for at least 5 work days prior to start of new construction and the first day of work</li> <li>Declaration is moved to website archives after first day of work starts</li> </ul>
10	MA III	Posts signed hard copy of Declaration in the Hall of Administration Bulletin Board Glass Case in the main entryway: <ul style="list-style-type: none"> <li>Gets keys from CSD OA IV (CJ Farrar) for outside bulletin board</li> <li>Post for at least 5 work days prior to start of new construction and through the first day of work</li> </ul>
11		Save the final, signed letter as a PDF on T drive under the specific road file. See <a href="#">T:\Roads - Areas - Cities\Roads</a> If more than one road is on the notice, save to the road with largest dollar amount associated with the construction being performed.

For the definition of public projects and construction, see below (in addition to the AB720/PCC language), which is extracted from the California Uniform Construction Cost Account Commission Manual ([http://www.sco.ca.gov/files-ard-local/cuccac\\_cuccac\\_man.pdf](http://www.sco.ca.gov/files-ard-local/cuccac_cuccac_man.pdf))

22002  
Definitions

(a) "Public agency" for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Public agency" also includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

**(c) "Public project" means any of the following:**

**(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.**

(2) Painting or repainting of any publicly owned, leased, or operated facility.

(3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

**(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:**

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

(2) Minor repainting.

**(3) Resurfacing of streets and highways at less than one inch.**





## California Uniform Construction Cost Accounting Commission

State Controller's Office – Division of Accounting & Reporting  
3301 C Street, Suite 500, Sacramento, California 95816  
[http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html)

Mr. John Donlevy Jr.  
City Manager  
City of Winters  
318 First Street  
Winters, CA 95694

August 31, 2015

SUBJECT: Notice of Review

Dear Mr. Donlevy,

The purpose of this letter is to advise you that the California Uniform Construction Cost Accounting Commission (CUCCAC or Commission) has received the attached complaint from the Construction Industry Force Account Council (CIFAC) alleging that your agency has violated section 22031(e) of the Public Contract Code (PCC) on the Railroad Avenue Sirte Project.

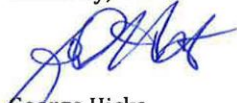
As discussed in our phone conversation on August 24<sup>th</sup>, PCC section 22043 requires the CUCCAC to review all complaints filed. The CUCCAC has scheduled a hearing on this matter at our Commission meeting in Sacramento on September 9, 2015. The Commission hearing will be held during the Commission meeting scheduled to begin at 10:00 a.m. and be held at the following location:

California State Controller's Office  
300 Capitol Mall  
6th Floor, Terrace Room  
Sacramento, CA 95814

In order to adequately review this matter and consider all relevant facts, I request that you provide a response to the Commission regarding this CIFAC complaint. Your response should include the value of all contracts awarded as part of this demolition project as well as the value of all force account work performed by your employees (see CUCCAC Cost Accounting Policies and Procedures Manual for an outline of relevant information available as a link on the State Controllers webpage [http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html)). You may provide your response in writing, or through oral testimony at the Commission hearing, or both. Please provide your response prior to the close of the September 9, 2015 hearing on this item.

If you have any questions regarding this item, please feel free to contact State Controller/Commission staff member Mr. Robert Szabo at (916)327-8905 or by email at [RSzabo@sco.ca.gov](mailto:RSzabo@sco.ca.gov). Thank you in advance for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Hicks", is positioned above the printed name.

George Hicks  
Chairman, CUCCAC

Cc: Mr. Dan Maguire, Economic Development Director, City of Winters  
Robert Szabo, SCO





Steve Harris, President

Dave Thomas, Vice President

Bill Koponen, Secretary

Mike Hester, Treasurer

August 21, 2015

George Hicks, Chair  
California Uniform Construction Cost Accounting Commission  
c/o State Controller's Office  
Local Government Policies Section  
P.O. Box 942850  
Sacramento, CA 94250

Re: City of Winters  
Railroad Avenue Project

Dear Chairperson Hicks and Commissioners:

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that represents various members of the public works construction industry throughout California. We work to ensure compliance with the California Public Contract Code by public entities. Thus, we qualify as an interested party per the California Uniform Construction Cost Accounting Act requirements.

We request that the Commission review the City of Winters, Railroad Avenue Projects. They have been referred to as Railroad Avenue, Hotel site, and old fire house property. They are all one project by definition, but have been done in various phases this year. We believe that the City has exceeded its force account limit on this work. They have given projects to various contractors without using correct informal bidding procedures and also done work with force account labor. This constitutes a violation of public Contract Code 22034 (b) and makes a reviewable complaint under PCC 22042 (b).

#### **INFORMAL BIDDING:**

PCC 22034:

(b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

The City of Winters did not advertise, nor did they notice those people on their informal bidders list. Please see the attachments to this letter. We have included their informal bidders list, their staff reports for March and April. They state that they contacted certain contractors to get prices and /or bids on the work. This did not afford an open opportunity for contractors to bid on the work. As these contractors were not on the informal bidders list, which is short, they were then required to advertise for the work.

#### **EXCEEDED FORCE ACCOUNT**

Referencing the staff report from March 3, 2015 which is attached, you will see that they estimated at that time the project was valued at \$60,000. They also state in that report that City crews would be

Cathryn Hilliard, Executive Director  
837 Arnold Drive, Suite 200, Martinez, CA 94553 • phone 800-755-3354 • fax 925-957-1800 • email [info@cifac.org](mailto:info@cifac.org) • web [www.cifac.org](http://www.cifac.org)



doing work on the project to save funds. The Act is clear that if a project's value exceeds \$45,000, it must be bid in its entirety. We have been unable to obtain detailed costs of work done by City crews. We have no objection to bidding all of the work using the informal process, as none of our research has indicated that they exceeded the \$175,000 cap.

We have also attached a copy of our notice to file a complaint, to the City of Winters, which was sent via certified mail as required. Please feel free to contact me at (800) 755-3354 or Sally Riley, Senior Field Representative at (530) 549-3805, should you have any questions. We appreciate the Commission's attention to this complaint.

Sincerely,



Cathryn Hilliard  
Executive Director

Attachments: 5





Steve Harris, President

Dave Thomas, Vice President

Bill Koponen, Secretary

Mike Hester, Treasurer

August 21, 2015

John Donlevy, Jr., City Manager  
City of Winters  
318 First Street  
Winters, CA 95694

Sent Via Certified Mail

Re: Railroad Avenue Site Project

Dear Mr. Donlevy,

This letter is to serve as notice to the City of Winters, that the Construction Industry Force Account Council (CIFAC) is filing a formal complaint with the California Uniform Construction Cost Accounting Commission (CUCCAC) in reference to the work being done on the Railroad Avenue Site Project. We assert that you are in violation of Public Contract Code 22034 (b), exceeded force account limits. The value of the project exceeds \$45,000. You have failed to properly advertise all phases and have self-performed portions of the work with knowledge that the value of the project was in excess of the \$45,000.

The Construction industry Force Account Council is a non-profit organization that represents members of the construction industry.

Sincerely,

A handwritten signature in blue ink that reads "Cathy - Hilliard".

Cathryn Hilliard  
Executive Director



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Council Members  
DATE: March 3, 2015  
THROUGH: John W. Donlevy, Jr., City Manager  
FROM: Eric Lucero, Public Works Superintendent  
SUBJECT: Concrete Slab Demo Under Old Firehouse Building (10 Abbey St)

---

RECOMMENDATION: Council approval to execute contract agreement with VacaValley Excavating & Trucking, Inc. to remove approximately 22,750 sq ft of concrete slab at 10 Abbey St.

BACKGROUND: As Council is aware, the old firehouse building needs to be removed from 10 Abbey St to be replaced by a new hotel. After the building is taken down, the concrete slab needs to be removed from the property as part of the agreement with the hotel developers. Staff has taken bids from three different contractors to do the demo work of removing the slab, two local and one from Vacaville. VacaValley Excavating & Trucking was the lowest bidder at \$33,159.00. The other two bids came in at \$70,705.00 and \$108,694.00. Public Works staff will also be a part of demoing the inside portion of the old office buildings on this site to keep the cost down but will need funding for equipment rental and unforeseen obstacles. This budget will cover the concrete demo and the building demo.

FISCAL IMPACT: Total amount not to exceed \$60,000.00



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Council Members  
DATE: April 7, 2015  
THROUGH: John W. Donlevy, Jr., City Manager  
FROM: Dan Maguire, Economic Development and Housing Manager *nfl*  
SUBJECT: Authorize City Manager to execute a Contract for Construction Services Agreement with Solano Construction for Demolition of the building and property at 314 Railroad Avenue and 318 Railroad Avenue for the Downtown Hotel Project (APN #s 003 204 005 & 003 204 006)

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RECOMMENDATIONS:

1) Receive the report from staff recommending the issuance of a Construction Services Contract to Solano Construction for Demolition Services of City-owned buildings at 314 & 318 Railroad Avenue (formerly known as JJ's and Cody's) for the Downtown Hotel project, and 2) Authorize the City Manager to execute a contract with Solano Construction for the Construction Services Agreement.

BACKGROUND:

As part of the City's Development Agreement with AKM Railroad LLC for the Downtown Hotel project, the City is required to provide a "clean site" as a condition of the sale of the property. The buildings at 314 & 318 Railroad need to be demolished as part of the City's obligation under the Development Agreement. The City received bids from 3 different contractors to remove the buildings and the concrete slabs, 2 from Vacaville and 1 from Winters. Solano Construction was the low responsive bidder at \$25,695.00. The other bids came in at \$51,027.50 and \$52,995.00. The contract will cover the building demolition and concrete removal.

FISCAL IMPACTS:

Total contract amendment cost is not to exceed \$25,695.00.

ATTACHMENTS:

Informal Bid Request for Proposals and Related Documents



## City of Winters Contractor's Pre-Qualification Applications

Ample Electric	19 Main Street	Winters	CA	95694
JBN Electrical Construction	26 E. Main Street/P.O.Box 833	Winters	CA	95694
PCD	1032 Maxwell Drive	Santa Rosa	CA	95401
Vintage Paving Co., Inc.	1119 Main Street	Winters	CA	95694

List provided by City of Winters - August 2015

The demolition of City-owned properties for the hotel site is actually being done in parts, with the project broken into two phases. In the first phase, the City sold the vacant buildings (3) that were formerly the location of the Fire Department to a local farmer for a nominal price (\$1). The farmer contracted with Solano Construction to remove a building and reassemble it at his farm operation. Solano also salvaged "skin" from two adjacent buildings and demoed the remainder as part of his contract with the farmer. Once the buildings were gone, the concrete pad was demoed by Vaca Valley Excavation. The concrete demolition contract was awarded by City Council at the March 3<sup>rd</sup> meeting. The bid process for concrete demolition was coordinated by Eric Lucero.

Prior to phase one, the City filed the appropriate demolition paperwork with the Yolo Solano Air Quality Management District and solicited bids for asbestos and lead testing from a list of licensed testers provided on their (YSAQMD) website. The asbestos and lead testing was contracted to Anderson Environmental Consulting Group out of Sacramento. They utilized the Lead Detection Agency (Sacramento) as a subcontractor for the lead based paint survey. Once the surveys were received, on 2/17/2015, the City solicited bids from licensed abatement contractors from the list of abatement contractors on the YSAQMD website, with Select Environmental out of Sacramento contracted to provide environmental remediation. The remediation was completed prior to the start of each phase of demolition.

The two city-owned buildings on Railroad Avenue are the second phase of the demolition project. Five (5) local contractors (Hearn Construction, Vaca Valley Excavation, Cal Inc, K.O. Underground, and Solano Construction) were invited to bid via an email sent on March 20, 2015. I have attached a copy of the bid invitation with this email. Three of the five contractors invited to bid submitted bids (additional attachment) and the City Council awarded the contract to Solano Construction as the low responsive bidder at the City Council meeting on April 7, 2015.

We are in the process of executing the contract with Solano Construction, with demolition to begin on April 24 and expected to be completed around April 30<sup>th</sup>. I will forward the executed contract once it is available. It should be noted

the City Manager authorized the removal of the requirement for Payment and Performance bonds due to the anticipated small nature of the contract. This was communicated to all invited bidders via an email sent on 3/24/2015. Please feel free to contact me with any questions you may have, or any additional information you need.

Dan

Dan Maguire  
Economic Development & Housing Manager  
City of Winters  
530-794-6718 (direct line)  
530-400-1999 (cell)

RECEIVED

APR 17 2015

"Four11" for  
IF.mir@mnr.acting