January 22, 2009

California Uniform Construction Cost Accounting Commission
Attention: Jeanette Consentino, Fiscal Analyst, State Controller's Office
Office of the State Controller
P.O. box 942850
Sacramento, CA. 94250

VIA FAX 916-327-3162 AND UNITED STATES MAIL

Re: Construction Industry Force Account Council (CIFAC) complaint re:
City of Ukiah street repair on Alice Street

For Commission meeting on February 4, 2009

Dear Commissioners:

In this letter the City of Ukiah responds to the complaint filed by CIFAC regarding the overlay of a one block segment of Alice Street in Ukiah performed by City of Ukiah employees on August 11 and 12, 2008. CIFAC complains that the City's accounting shows that it exceeded the force account limit of $30,000 and is incomplete because it did not include the cost of traffic cones, barricades, tack oil and tax.

As I will explain in detail below, the actual cost accounting does show that the City exceeded the force account limit. The City also concedes that the value of traffic cones, barricades, tack oil and tax were omitted in making the estimate and in the accounting of actual costs. However, the City will also show that the documents submitted by CIFAC show that the City made a good faith effort to estimate the project cost, which was below the force account limit. It will also show that the value of the omitted items was approximately $206.17.

The City has submitted this response to the CIFAC complaint, because it is concerned that if it is subjected to the kind of scrutiny represented by the CIFAC complaint, and the Commission fails to allow some leeway in evaluating inadvertent and minor omissions or when actual costs exceed good faith estimates, the City could easily be found to have exceeded the force account limit more than three times in ten years. City employees must administer the cost accounting requirements and like all human beings, inevitably, over a 10 year period, they are going to make minor, inadvertent mistakes. Without some consideration of this fact, every local government that has agreed to the Uniform Construction Cost Accounting requirements is equally at risk.

The documents filed with the Commission by CIFAC include a spread sheet job estimate and a spread sheet showing the actual costs of the project. The Estimate projected a total cost of $29,987.18, which included the costs of labor, equipment and material, itemized

on the spread sheet and an additional 20% of those total costs to reflect overhead. This was a good faith estimate that attempted to project the cost in accordance with the Uniform Construction Cost Accounting Manual. The estimate included 190 tons of hot mix at $95.50 per ton. It did not itemize sales tax separately. The City's experience has been that the cost of hot mix varies substantially almost from day-to-day, and that oil and related costs were going down at the time of this job. Consequently, the $95.50 per ton was thought to be ample at that time to cover the net cost of hot mix plus sales tax.

The Estimate also did not include a cost for traffic barriers and traffic cones. Attached is the Cal Trans Labor Surcharge and Equipment Rental Rates, effective August 1, 2008 through March 31, 2009, showing the daily rental value of barricades and traffic cones. As you can see, barricades have a daily rental value of $.19 each without flashers. The City used 12 barricades without flashers on this two day job for a total cost of $4.56. The daily rental value of traffic cones is $6.73 per 100. The City used 24 cones for a total cost of $1.61 for this two day job. If these costs were added to the City's estimate, the projected job cost would have remained under $30,000.

Tack oil is dispensed from a tack pot. The cost of the tack pot was not included in the estimate, but was included in the account of actual expenses at $9. A tack pot holds approximately 500 gallons of tack oil. The tack pot is filled periodically as needed. The oil is not metered so the City does not have an accurate measure of how much oil is used on a single job. As an after-the-fact estimate, the Alice Street project may have used $200 worth of tack oil. If so, the estimate could have exceeded the force account limit by $193.35. Nevertheless, despite these omissions, which had a total value of approximately $206.15, the City clearly made a good faith estimate of the project costs which were under the force account limit.

The City also tracked the actual costs in accordance with the requirements in the Cost Accounting Manual. The estimated cost for labor was actually higher than the actual cost: $3,384.72 versus $2,963.70. Other estimated costs were less than the actual cost. For example, the project used 194.68 tons of hot mix rather than 190 tons, but the per ton cost was $94.00, rather than the estimated cost of $95.50, for a total cost of $18,299.82, as compared to an estimated cost of $18,145.00, a $154.82 difference. With the addition of $1,418.23 in sales tax, the actual cost of hot mix totaled $19,718.15, for a total difference between estimated and actual of $1,418.33. Similarly, equipment costs were estimated at $3,459.60, but actual costs were $4,710.99, a $1,251.39 difference.

If the 20% overhead charge is applied to the total actual costs, including the nominal cost of cones, barricades and tack oil, the actual cost of the Alice Street project is $33,046.67.[1]

[1] The Granite Construction hot mix bill submitted by CIFAC included a net charge of $18,299.92 @ $94/ton for 194.66 tons. The actual cost spread sheet prepared by the City included $18,591.94 for 194.68 tons of hot mix @ $95.50/ton, a difference of $292.12. Subtracting that amount from the total actual cost on the spread sheet of $26,266.63 results in an adjusted actual cost of $25,914.51. When the sales tax from the Granite invoice is added to that figure along with the cost of barricades, cones and tack oil, the total actual cost of labor, equipment and supplies for this project is $27,538.89.

The difference between the estimated cost of $29,987.18 and an actual cost of $33,046.67 is less than 10%.

The Cost Accounting Act and the Cost Accounting Manual do not address this circumstance, where a good faith estimate of project cost is within the force account limit, but the actual cost turns out to modestly exceed that limit. This circumstance should be addressed, because a city decides whether to proceed with a project by force account based on the estimate. The actual cost cannot be known until the project is complete. By the time a city discovers that the actual cost will exceed the limit, it is too late to bid the project. The City contends that the Commission should not penalize a city which proceeds to perform a public project by force account based on a good faith estimate that its cost is within the force account limit, if, as is the case here, the actual cost turns out to exceed that limit by 10% or less. The Cost Accounting Act provides this leeway, when a project is bid. (See Public Contracts Code §22034(f), which allows a city to accept a bid that exceeds the limit on informal bids by 10% or less on a 4/5 vote of the City Council.) The Act apparently recognizes that a city should not be put to the inconvenience and expense of rebidding such a project as a formal bid, if the lowest bid exceeds the limit by 10% or less. In the case of force account work, the prejudice to a city is much greater, if it is not given similar consideration.

The documents filed by CIFAC demonstrate that the City was making a good faith effort to comply with the Act and the Manual. The failure to include the cost of cones, barricades, tack oil and sales tax were inadvertent and understandable under the circumstances and had a small effect on the estimated and actual costs.

For all of these reasons, the City urges the Commission to find that the City should not be considered to have knowingly or recklessly exceeded the force account limit. The Commission should reserve a determination that a city has exceeded the force account limit for situations where the city did not proceed on the basis of a good faith estimate that the project would cost less than the force account limit and where actual cost exceeds the estimate by more than 10%.

Sincerely,

Tim Eriksen, P.E.
Public Works Director/ City Engineer
City of Ukiah

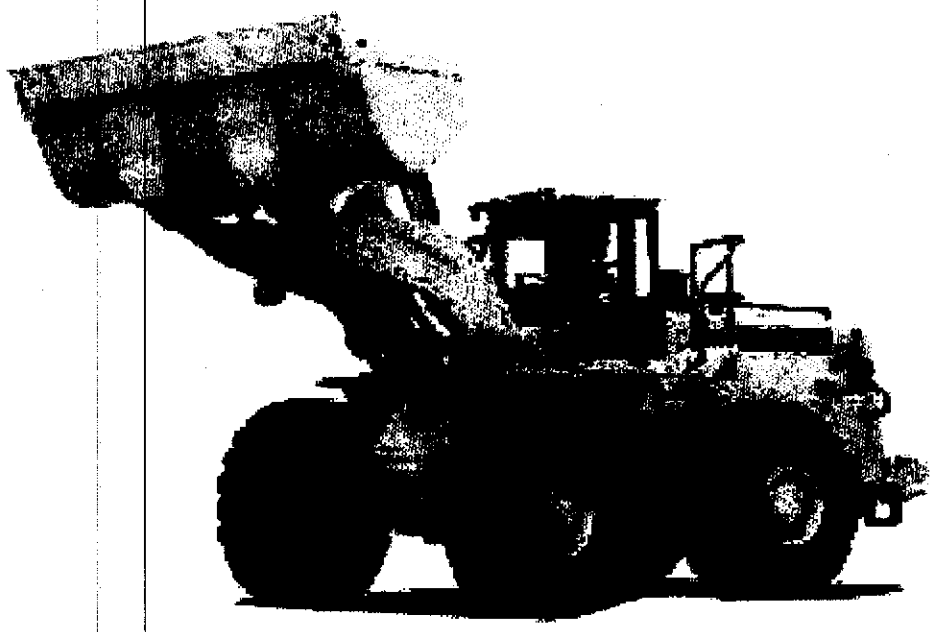
cc: City Manager
City Council

State of California
Business, Transportation, and Housing Agency

Department of Transportation
Division of Construction

Labor Surcharge and Equipment Rental Rates **(Updated)**

(Cost of Equipment Ownership)



Effective August 1, 2008 through March 31, 2009

backhoe, w/ or w/o loader or dozer	C	$23.91

OVER 37.3 kW (50 HP) [>50]

Including, but not limited to the following:
Bobcat-- 853, 863, 873, 943, 953, 980
Case-- 1845C
Deere-- 5300, 5400, 6200, 6300, 6400, 8875
Ford-- L783, L785, 250C, 260C
Gehl-- SL5625, SL6625, SL6635
Hydra-Mac-- 1850, 2650, 2650D
JCB-- 185Robot
Massey-Ferguson-- MF40E, MF50EX
Mustang-- 960, 2060
New Holland-- 4630, 5030, 5640, 6640, 7740, 7840, 8240, 8340, L865, LX865, LX885, 345D, 545D
Ramrod-- 1750, 1950
Thomas-- T-173HL, T-173HLS, T173HLS II, T-203HD, T-233HD
Trak-- 1700HD, 1700C, 1700CX, 1700XHP

Model	Code	Rate
with loader or dozer	A	$29.64
auger, w/ or w/o loader or dozer	B	$30.08
backhoe, w/ or w/o loader or dozer	C	$31.41

TRAFFIC CONTROL & SAFETY DEVICES (HOURLY RATES) [TRAFA]

DELAY FACTOR = 0.38 **OVERTIME FACTOR = 0.66**

CHANGEABLE MESSAGE SIGN [CMSN]

Model	Code	Rate
Generator	GEN1	$12.33
Generator w/ cell remote	GEN2	$13.42
Solar	SOL1	$8.43
Solar w/ cell remote	SOL2	$9.52

FLASHING ARROW SIGN [FLAS]

Including supplies, replacements and servicing.

Model	Code	Rate
Roof mounted	RM	$0.74
Trailer mounted	TM	$2.96

TRAFFIC CONTROL & SAFETY DEVICES (DAILY RATES) [TRAFC]

DELAY FACTOR = 0.73 **OVERTIME FACTOR = 1.00**

Includes supplies and servicing. The following allowance is entered on the extra work by using days instead of hours worked. Crash cushion barrels and K-rail sections are now listed with Non-Operated items[NONOP].

(1) BARRICADES [1BAR]

(A) 750 mm to 900 mm high & 600 mm to 900 mm wide (30 to 36 inches high & 24 to 36 inches wide)
(B) 1500 mm high by 1200 mm wide min. (60" high by 48" wide min.)

Model	Code	Rate
each with flasher	A1	$0.37
each without flasher	A2	$0.19
each	B3	$0.84

(2) TRAFFIC CONES [2TC]

Lost or destroyed are no longer paid on invoice.

Model	Code	Rate
450 mm (18") high, per 100	A100	$6.73
700 mm (28") high, per 100	B100	$11.76
700 mm (28") high w/ refl sleeve, per 100	D100	$18.04
1,050 mm (42") high w/ refl sleeve, per 100	E100	$30.02

(3) PORTABLE DELINEATOR [3DEL]

Lost or destroyed are no longer paid on invoice.

Model	Code	Rate
per 100	100	$19.25

(4) ILLUMINATED SIGNS [4SIG]

Model	Code	Rate
incl 900 mm x900 mm (3'x3') sign & batteries	12V	$4.61

(5) FLASHING BEACON [5BEA]

Model	Code	Rate
portable 12 volt	12V	$4.70

(6) FLAG/SIGN STAND [6FSS]

Model	Code	Rate
incl sign, stand & 3 flags	EACH	$2.14

(7) DELINEATOR DRUM [7DDR]

Model	Code	Rate
Del. drum w/ base per 100	100	$47.26

TRAILERS, EQUIPMENT, LOW BED [TRAIL]

DELAY FACTOR = 0.45 **OVERTIME FACTOR = 0.60**

Includes all attachments and accessories related to hauling. The rates cover drop deck type with and without folding/removable gooseneck or oscillating trunion. Pilot vehicles are extra. Listed in accordance with number of axles and tires per axle. Includes jeeps, booster axles, and dollies. All loads shall be hauled legally or within Caltrans Permit Policy.

LOW BED A [LB-A]

2 axle

Model	Code	Rate
4 Tires per axle	100	$12.50
8 Tires per axle	200	$15.76

LOW BED B [LB-B]

3 axle

Model	Code	Rate
4 Tires per axle	300	$16.74
8 Tires per axle	400	$19.39

LOW BED C [LB-C]

4 axle

Model	Code	Rate
4 Tires per axle	500	$26.95
8 Tires per axle	600	$33.47

STATE OF CALIFORNIA **JOHN CHIANG, California State Controller**

California Uniform Construction Cost Accounting Commission

Gene Cortright
Director of Public Works
City of Fairfield-Cities
Chairman

Jeff Armstrong
Laborers Union - Labor
Vice-Chairman

Linda Clifford
Chief Financial Officer
C.C. Myers, Inc.
Secretary

Eddie Bernacchi
NECA, Politico Group
Subcontractors

Jay Hansen
Legislative Director
State Building & Construction
Trades Council of California
Labor

Robert Byrd
Auditor-Controller
County of Riverside - Counties

Guiselle Carreon
Director of Purchasing
District - Schools

William Dildine
Subcontractor

David Gomez
Director
Palmdale Water District
District – Special Districts

David A. McCosker
Chairman of the Board
Independent Construction Co.
General Contractors

Alec Pringle
Director of Engineering
Services Department
County of Ventura-Counties

Lisa Miller-Strunk
Contractors State License
Board

January 20, 2009

David J. Rapport
City Attorney
Law Offices of Rapport and Martson
405 W. Perkins Street
P.O. Box 488
Ukiah, CA 95482

Dear Mr. Rapport:

Our commission has received your letter dated January 6, 2008, stating your concerns regarding the Ukiah matter.

The commission will consider your points in our next meeting scheduled for February 4, 2009. The meeting is open to the public and can be attended in-person or by teleconference. We will send you details of the meeting two weeks prior to the date. If you have any questions regarding this matter in the mean time, please contact me at 707-428-7493.

Sincerely,

Gene S. Cortright
Chairman

CUCCAC Commission

cc: Jane Chambers, City Manager
Commissioner Armstrong
Commissioner Bernacchi
Commissioner Byrd
Commissioner Carreon
Commissioner Clifford
Commissioner Dildine
Commissioner Gomez
Commissioner Hansen
Commissioner McCosker
Commissioner Pringle
Commissioner Miller-Strunk
Catherine Hilliard, CIFAC

State Controller's Office, Local Government Policies Section * P.O. Box 942850, Sacramento, CA 94250
Phone: 916-322-9105 * Fax: 916-327-3162

Law Offices Of

RAPPORT AND MARSTON

An Association of Sole Practitioners

405 W. Perkins Street
P.O. Box 488
Ukiah, California 95482
e-mail: drapport@pacbell.net

David J. Rapport
Lester J. Marston
Scott Johnson
Mary Jane Sheppard

(707) 462-6846
FAX 462-4235

January 6, 2009

Mr. Gene S. Cortright, Chairman
CUCCAC Commission
State Controller's Office
P.O. Box 942850
Sacramento, CA. 94250

SENT BY FAX: 916-327-3162 AND U.S. MAIL

Re: CIFAC complaint about City of Ukiah project on Alice Street in Ukiah

Dear Mr. Cortright:

I am the City Attorney for the City of Ukiah. City Manager Jane Chambers asked me to write to you, clarifying some issues concerning the Commission's investigation of the CIFAC complaint. The City fully intends to respond on the merits of the complaint, now that it has received the information filed by CIFAC with the Commission, but your December 18 letter contains some statements, regarding the procedure that I have been asked to address now.

In your letter, you state that the Commission did not deem it necessary to assign a commission consultant, because of the documents submitted by CIFAC. As I read Public Contract Code Section 22045, the Commission was required to submit proposed procedures for conducting these reviews to the Controller who was required to adopt or reject them. I assume that the procedures set forth in the Cost Accounting Manual were accepted and adopted by the Controller. As a result, the procedures are binding on the Commission which is required to follow them.

Section V of the Accounting Procedures Review provisions in the Manual read as follows:

> V. Immediately upon receipt of a request for accounting procedures review, ***it shall be assigned by the Commission to one/or more of the prequalified consultants*** for review.
>
> A. The consultant will review all of the information set forth in Section III(d).
>
> B. The consultant will interview the public agency involved and submit as a part of the findings a complete statement of the public agency's position with respect to the review being conducted.

Jan 06 09 10:36a RAPPORT AND MARSTON (707) 462-4235 p.1
707 462 4235

> C. The consultant shall prepare written findings and a recommended decision within twenty (20) calendar days from the date the request for review was received by the Commission. (Emphasis added.)

Ordinarily, the use of the word "shall" means the action is mandatory; not subject to the Commission's discretion. A consultant shall be assigned immediately upon receipt of the complaint. Moreover, the consultant is required to interview the public agency and submit as a part of the proposed findings a complete statement of the public agency's position. Because the Commission did not comply with the mandatory requirement of appointing a consultant or the time requirement of doing it immediately upon receipt of the complaint from CIFAC, no findings have been prepared and certainly no findings have been prepared that contain a complete statement of the City's position with respect to the review being conducted.

As a result, contrary to the statement in your letter, the City has yet to receive any findings from the Commission and the Commission apparently took action on the complaint at its November 7, 2008, meeting without receiving proposed findings that contained a complete statement of the City's position. It only received the information filed by CIFAC. This one sided consideration raises due process concerns as well as concerns about the Commission following its own rules.

In your December 18 letter, you state that the City should delay presentation of the Commission's findings until after the Commission's next meeting on February 4, 2009. This statement assumes that the City has received findings from the Commission. Findings are statements of fact addressing the particulars of a complaint. As recognized in the Cost Accounting Manual, the findings form the basis for the consultant's recommended decision. The only communication regarding the Commission's determination that the City has received from the Commission is your November 25 letter which states that the Commission has determined that the City violated the force account limits. However, the November 25 letter did not contain findings which support this determination or which meet the previously discussed requirements in the Cost Accounting Manual. Until the City receives findings that satisfy these requirements, it cannot present them at a public hearing before its City Council.

In undertaking this investigation, the Commission has already violated all of the time requirements in the pertinent sections of the Public Contracts Code and in the Cost Accounting Manual. I think there is a substantial likelihood that the City has been prejudiced by the Commission's failure to follow its own procedures. Apparently, the Commission has already made a decision at its November 7 meeting without affording the City an opportunity to respond to these charges. By asking the City to delay presentation of the findings the Commission has already adopted, your letter reinforces the impression that the Commission's impartiality has already been compromised.

Under these circumstances, I believe the Commission should suspend this investigation rather than attempt to correct after the fact what may be incurable procedural irregularities. In addition, the City would appreciate an acknowledgment that the Commission has not yet adopted and the City has not received findings from the Commission.

Very truly yours,

David J. Rapport,
City Attorney

cc: Jane Chambers, City Manager
City Council
John Chang, California State Controller

Cosentino, Jeanette

From: CORTRIGHT, GENE S [GCORTRIGHT@ci.fairfield.ca.us]
Sent: Friday, December 12, 2008 01:08 PM
To: 'jchambers@cityofukiah.com'
Cc: Cosentino, Jeanette
Subject: CA Uniform Construction Cost Accounting Act

Dear Ms. Chambers,

After discussing your letter dated December 9, 2008 with the State Controller's Office (SCO) staff, it has been determined that the SCO staff will prepare a letter for my signature indicating that you may delay presenting the Commission's finding to your City Council on December 17th until the Commission has had time to review any backup documentation you wish to submit regarding the Alice Street project. The Commission will be meeting on February 4th at which time, it will review the information and make a recommendation for action.

I will also call you to verify that you have received this message.

Sincerely,

Gene Cortright
Chair
CA Uniform Construction Cost Accounting Commission

837 Arnold Drive #200
Martinez, CA 94553
Phone: (800) 755-3354
Fax: (925) 957-1800
Email: cifac@sbcglobal.net

Construction Industry Force Account Council

Fax

To:	Jeanette Cosentino	**From:**	Lynee Runyon
Fax:	916-327-3162	**Date:**	December 12, 2008
Phone:		**Pages:**	5 including cover
Re:	City of Ukiah	**Cc**	

1. Agenda Summary Report
2. Letter to City of Ukiah

City of Ukiah

ITEM NO.: 9a
MEETING DATE: December 17, 2008

AGENDA SUMMARY REPORT

SUBJECT: PUBLIC HEARING AND CITY RESPONSE TO CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING COMMISSION NOTICE OF VIOLATION

Background: On December 8, 2008 the City Manager received a letter dated November 25, 2008 from the California Uniform Construction Cost Accounting Commission (CUCCAC) outlining the fact that the commission had determined the City of Ukiah was in violation for a paving project undertaken in August 2008 on Alice Ave. This determination was made by the Commission on the basis of a complaint filed by the Construction Industry Force Account Council (CIFAC), and no other documentation from the City of Ukiah.

Although the City Manager's office had received the letter of complaint from CIFAC, city staff was waiting for contact from the CUCCAC to respond to the complaint and provide the City's position on this issue. There was no contact from the State, that reached either the City Manager or the Director of Public Works, prior to receipt of the November 25 letter, although the manual for the Commission's process does outline a series of steps that the State Commission is to take to process complaints. Attached is a letter sent to CUCCAC requesting this missing information, including the findings, in order for the City Council to have that information to review as part of the public hearing process. The information requested of CUCCAC will be provided to the Council as soon as it is received.

Public Works Staff have received training on the Uniform Cost Accounting procedures and have been endeavoring to follow all mandates. The item in question on the Alice Ave project is $1,000 in excess of the $30,000 limit. The project was accounted for prior to undertaking the work in conformance with the requirements, and met the $30,000 threshold. The cost overrun was due to poor asphalt mix that was delivered from the plant, and when accounted for, exceeded the original estimate of cost for materials on that project.

It is City staff's understanding from the training received from CIFAC on Uniform Cost Accounting, where the specific question was asked, that the strict $30,000 limit has been interpreted to allow for one-time

Continued on Page 2

Recommended Action(s): Receive the report.

Alternative Council Option(s): Provide direction to staff.

Citizens advised:
Requested by:
Prepared by: Jane Chambers, City Manager
Coordinated with: Tim Eriksen, Director of Public Works; David Rapport, City Attorney
Attachments: 1) Copy of Nov 25 Letter, 2) Copy of CIFAC letter, 3) Response from State

Approved: Jane Chambers
Jane Chambers, City Manager

material cost overruns where these are unavoidable as a result of construction issues in the field, and that the $1,000 cost overrun due to materials is not by itself, the cause for violation. Staff also, again, directly from the training received, will dispute CIFAC's conclusion that the accounting missed items such as tack oil, cones and barricades. Staff did include accounting for all items required in its assessment of the project.

Staff will be addressing the City's response to the complaint to CUCCAC, and request that the City's information be respectfully considered in a reversal of the violation complaint.

The purpose behind the City's use of the force account provision is to provide the residents of Ukiah with services to address cost effective and timely routine maintenance, as well as emergency response services for weather and other events. The alternative would be to bid out the work for maintenance that is now supplied by the crews for jobs amounting to less than $30,000. Such a change would include a component of costs associated with the administration of the purchasing, contracting, and oversight necessary to have this work conducted by outside crews. The assumption cannot be made that it is more cost effective to bid out work for those projects under $30,000 without a complete analysis of other costs that would be incurred by the City to conduct the work in this manner, or the effect of such a choice on the ability of the City crews to effectively respond to emergency and other events as needed.

Fiscal Impact:

☐ Budgeted FY 08/09 ☐ New Appropriation ☒ Not Applicable ☐ Budget Amendment Required

Gene Cortright
Director of Public Works
City of Fairfield-Cities
Chairman

Jeff Armstrong
Laborers Union - Labor
Vice-Chairman

Linda Clifford
Chief Financial Officer
C.C. Myers, Inc.
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Eddie Bernacchi
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Jay Hansen
Legislative Director
State Building & Construction
Trades Council of California
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Robert Byrd
Auditor-Controller
County of Riverside - Counties

Guiselle Carreon
Director of Purchasing
District - Schools

William Dildine
Subcontractor

David Gomez
Director
Palmdale Water District
District – Special Districts

David A. McCosker
Chairman of the Board
Independent Construction Co.
General Contractors

Alec Pringle
Director of Engineering
Services Department
County of Ventura-Counties

Lisa Miller-Strunk
Contractors State License
Board

December 18, 2008

Ms. Jane Chambers
City Manager
300 Seminary Avenue
Ukiah, CA 95842

Dear Ms. Chambers:

Our commission has received your request for information regarding the city's violation of the Uniform Public Construction Cost Accounting Act. Per your request, we are sending you the notification of the California Uniform Construction Cost Accounting Commission meeting of November 7, 2008 and copies of all documentation received by the commission from the Construction Industry Force Account Council (CIFAC).

Based on the documents submitted by CIFAC, the commission did not deem it necessary to assign a commission consultant for additional account review. If you would like to submit further documentation regarding the project on Alice Street, please send it to the commission via the State Controller's Office address. In light of the extended account review, please delay presentation of the commission's findings to your city council until after the commission's next meeting on February 4, 2008. If you have any questions regarding this matter, please contact me at 707-428-7493.

Sincerely,

Gene S. Cortright
Chairman
CUCCAC Commission

RECEIVED
DEC 2 6 2008
STATE CONTROLLER'S OFFICE
DIV. OF ACCOUNTING & REPORTING

State Controller's Office, Local Government Policies Section * P.O. Box 942850, Sacramento, CA 94250
Phone: 916-322-9105 * Fax: 916-327-3162

December 9, 2008

Gene Cortright, Chairman
Eddie Bernacchi,
Former Chairman
California Uniform Construction Cost
Accounting Commission
State Controller's Office
Local Government Policies Section
P.O. Box 942850
Sacramento, CA 94250

Dear Mr. Bernacchi:

The City of Ukiah respectfully requests that future correspondence from your Commission be sent to the attention of the City Manager, Jane Chambers at 300 Seminary Avenue, Ukiah, CA 95482.

This request is being made as the result of a number of recent correspondences from your Commission related to a complaint and Commission determined violation of the Uniform Public Construction Cost Accounting Act for a paving project performed on Alice Street, Ukiah, California. None of these correspondences were received by either the City Manager or the Director of Public Works.

As such, I'm requesting that you provide me with the following documents:

1. Letter from Consultant requesting information from the City.
2. Notification of Commission Hearing related to the incident described above.
3. Copies of all documentation/correspondence related to this incident, as well as Commission findings.

The City of Ukiah has concerns with the Commission's violation determination for a number of reasons. In addition to the fact that neither the City Manager nor the Director of Public Works Department received any correspondence from your office related to this allegation, to my knowledge, and that of the City's Director of Public Works, the Consultant never contacted the City to allow the City the opportunity to respond to the alleged violations of the Uniform Public Construction Cost Accounting Act.

The City takes very seriously the allegation and the Commission's violation determination of the Uniform Public Construction Cost Accounting Act. As a result of your recent correspondence dated November 25, 2008 notifying the City of the Commission's determination of violation (received on December 8, 2008), we have scheduled a public hearing at the next City Council meeting scheduled for December 17, 2008 to discuss the matter.

The City respectfully requests the presence of a Commission member representative and the complaining party (Construction Industry Force Account Council) at the City's next City Council meeting to discuss this allegation and the resulting violation determination. The Ukiah City Council meeting is scheduled to be held at 6:00 p.m. on December 17, 2008 at 300 Seminary Avenue, Ukiah, California.

Thank you in advance for providing the requested documentation and attendance at the upcoming City Council meeting.

Sincerely,

Jane Chambers,
City Manager

cc: Councilmembers, City of Ukiah
Catherine A. Hilliard, CIFAC
Commissioner Jeff Armstrong
Commissioner Robert Byrd
Commissioner Guiselle Carreon
Commissioner Linda Clifford, Secretary
Commissioner William R. Dildine
Commissioner Jay Hansen, Vice-Chairman
Commissioner David A. McCosker
Commissioner Alec Pringle
Commissioner Lisa Miller-Strunk

RECEIVED
DEC 12 2008
STATE CONTROLLER'S OFFICE
DIV. OF ACCOUNTING & REPORTING

California Uniform Construction Cost Accounting Commission

Gene Cortright
Director of Public Works
City of Fairfield-Cities
Chairman

Jeffery W. Armstrong
Laborers Union - Labor
Vice-Chairman

Linda Clifford
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C.C. Myers, Inc.
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District - Schools

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Trojan Electric, Inc.
Subcontractors

David Gomez
Director
Palmdale Water District
District – Special Districts

David A. McCosker
Chairman of the Board
Independent Construction Co.
General Contractors

Alec Pringle
Director of Engineering
Services Department
County of Ventura-Counties

Dale Pfeiffer
Director of Public Works
City of Vacaville - Cities

Lisa Miller-Strunk
Contractors State License
Board

November 25, 2008

Honorable Douglas Crane, Mayor
City of Ukiah
C/O City Clerk's Office
300 Seminary Avenue
Ukiah, CA 95842

Dear Mayor Crane:

This letter is to inform you and the City Council Members of Ukiah that the city has been determined by our commission to be in violation of the Uniform Public Construction Cost Accounting Act (Act) for the paving project performed on Alice Street. The Construction Industry Force Account Council (CIFAC) filed a formal complaint with our commission on October 6, 2008, and sent a letter to your address on Seminary Avenue on the same date (a copy of the complaint and certified mail receipt are enclosed) stating that the City of Ukiah has violated Public Contract Code Section 22042 (b), project exceeded the force account limit of $30,000.

The commission did not receive any counter response or additional documentation from the City of Ukiah for our consultants to review; therefore, our decision was based on the documents received by our office from CIFAC. As a signatory member of the Act, and pursuant to Public Contract Code 22044, you must agenda this item and present the commission's findings to your governing body within 30 days of receipt of this letter. Please send a copy of your minutes addressed to the commission at the address found below.

In addition, pursuant to Public Contract Code Section 22044.5, if the commission finds any one public agency out of compliance with the requirements of the Act on three separate occasions within a 10-year period, that agency will be barred from using the provisions of the act for a period of five years. This finding will be held on record as the City of Ukiah's first violation under this section of law.

If you have any questions regarding this matter, please contact me at 707-428-7493.

Kindest regards,

Eddie Bernacchi
Former Chairman,
CUCCAC Commission

cc: City Council Members of Ukiah
Catherine A. Hilliard, CIFAC
Commissioner Jeff Armstrong
Commissioner Gene Cortright, Elected Chairman
Commissioner Robert Byrd
Commissioner Guiselle Carreon
Commissioner Linda Clifford, Secretary
Commissioner William R. Dildine
Commissioner David Gomez
Commissioner Jay Hansen, Vice-Chairman
Commissioner David A. McCosker
Commissioner Alec Pringle
Commissioner Lisa Miller-Strunk

CIFAC construction industry force account council

D. A. McCosker, President Cedric Porter, Vice President Steve Harris, Secretary Michael Hester, Treasurer

October 6, 2008

Hon. Douglas Crane, Mayor
And Members of the City Council
City of Ukiah
300 Seminar Avenue
Ukiah, Ca 95482

Dear Mayor Crane and Council Members:

This letter is to serve as a formal notice of complaint against the City regarding the paving project on:

ALICE STREET

The accounting that was provided by the City shows that you exceed the force account limit allowed by law. That accounting is missing items, such as tack oil, cones and barricades, which were used.

We have attempted to resolve force account issues with staff contact over the last few years. We have been unable to resolve the problems. The City is signatory to the California Uniform Construction Cost Accounting Commission. You have a $30,000 force account limit. The accounting provided by City staff is incomplete and already exceeds that limit.

As per Public Contact Code Section 22043, we are filing a letter of formal complaint with the California Uniform Construction Cost Accounting Commission, and requesting review of expenditures on this project.

The Construction Industry Force Account Council is a non-profit organization that monitors public entities for compliance with the California Public Contact Code. We represent contractors, contractor associations and various building trades.

Sincerely,

Cathryn A. Hilliard

Cathryn A. Hilliard
Executive Director

Cc: North Coast Builders Exchange

Cathryn Hilliard, Executive Director
837 Arnold Drive, Suite 200, Martinez, CA 94553 • *phone* 800-755-3354 • *fax* 925-957-1800 • *email* cifac@sbcglobal.net • *web* www.cifac.org

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Hon. Douglas Crane
City of Ukiah
300 Seminar Ave
Ukiah, CA 95482

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X R. Benson ☐ Agent ☐ Addressee

B. Received by (Printed Name) R. BENSON C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
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4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7008 1300 0001 0074 7602

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540