

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Matt Cano

**SUBJECT: MONTEREY-BERNAL
EMERGENCY HOUSING
PROJECT LABOR COMPLIANCE**

DATE: March 19, 2021

Approved



Date

3/19/21

INFORMATION

The purpose of this memorandum is to provide information regarding labor compliance issues at the Emergency Housing Project at Monterey and Bernal.

In order to ensure safety of our most vulnerable residents during the COVID pandemic, the Emergency Housing Project at Monterey and Bernal was completed in October 2020 in an approximately six month time frame and will ultimately house over 80 previously unhoused residents with a pipeline for these individuals to move into permanent supportive housing. The project was delivered as a City public works project at a cost of approximately \$6 million. All workers were required to be paid prevailing wages set by the California Department of Industrial Relations. As it does on all public works projects, the City of San José proactively enforced labor compliance on this project.

As a result of the City's proactive enforcement efforts, City staff identified labor compliance violations on this project and issued appropriate fines and penalties. These fines and penalties fell into the following categories:

- Department of Industrial Relations: One failure to comply with Contractor Registration requirements and one late payroll submission.
- Apprentices: The majority of the fines and penalties were the result of the lack of timely document submission, notifications to apprenticeship programs, and apprentice ratios on the project. The fines that will be paid as part of these penalties will be provided directly to the State's Division of Apprenticeship Standards.
- Underpayment: To date, the City has identified two violations regarding incorrect wage payments to workers - an incorrect fringe benefit calculation for two (2) workers and a missed pre-determined wage increase for twelve (12) workers. In total, the City identified just under \$4,000 in underpayments to all 14 workers in aggregate.

The City is withholding final payments on the contract until all violations are corrected.

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Importantly, City staff is continuing its investigation of the project to ensure full compliance with labor standards. These efforts include coordinating with the California Department of Industrial Relations, Division of Labor Standards Enforcement.

We recently became aware of an allegation in which one worker was allegedly underpaid and has filed a lawsuit. The City was not aware of that particular alleged underpayment until this week. To date, no complaint has been filed with the City regarding the allegations. The City's ongoing investigations include trying to determine the basis of the allegations.

We also recently became aware of an observation of alleged safety issues at the worksite. Our Public Works Department takes safety very seriously. City inspectors were at the project worksite on a daily basis and did not note any serious safety issues.

Any safety or wage related complaints, comments, or questions can be reported to the Office of Equality Assurance by e-mail at MyWage@sanjoseca.gov or by phone at (408) 535-8430. All complaints are confidential for worker protections.

/s/

MATT CANO

Director of Public Works

For questions, please contact Christopher Hickey, Division Manager, at christopher.hickey@sanjoseca.gov