

ATTACHMENT C



CITY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
OFFICE OF CONTRACT COMPLIANCE

FACSIMILE TRANSMITTAL SHEET

TO:	Charlene	FROM:	Chris Jensen
OFFICE:	Manuel Bros., Inc.	DATE:	JULY 19, 2007
FAX NUMBER:	530-272-3815	TOTAL NO. OF PAGES (INCLUDING COVER SHEET):	3
PHONE NUMBER:	530-272-4219	PHONE AND FAX NUMBERS:	Ph: 213-847-2662 Fax: 213-847-2777
RE:	ATSAC @ Western, Long Beach, Santa Monica	YOUR REFERENCE NUMBER:	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Gary:

As we discussed on the telephone, attached is the 2nd Revised Summary of Assessed Wage and Penalty Log relative to the work Manuel Bros. did on the above referenced project. Following your review of this document please feel free to contact me at my office number, or if you wish, on my cell phone. The number is (213) 798-5260.

It has been a pleasure working with you to resolve this matter and I look forward to working with you again.

Sincerely,

Chris Jensen, Senior Labor Compliance Analyst
Office of Contract Compliance

REVISED SUMMARY OF ASSESSED WAGE RESTITUTION AND PENALTY LOG

OCC FILE NO.: P05-249 July 26, 2007
 PROJECT: TPS/ATSAC Western/Santa Monica/Long Beach B1904485
 PRIME: Manuel Bros., Inc.
 SUBCONTRACTOR: N/A

EMPLOYEE NAME	WAGE RESTITUTION	WAGE RESTITUTION PENALTY	DAS TRAINING FUND
Jesus Ramirez	\$453.90	\$1,400.00	\$0.74
Rafael Mendoza	\$1,212.12	\$3,975.00	\$2.02
Ruben Reyes	\$0.00	\$0.00	\$0.00
Juan de la Torre	\$111.63	\$225.00	\$0.93
Ron Bender	\$287.69	\$575.00	\$0.18
Juan Manuel Calderon	\$347.53	\$850.00	\$2.43
Jose Guadalupe Castaneda	\$163.21	\$625.00	\$0.37
Ernesto Diaz	\$0.00	\$0.00	\$0.00
Victor Duran	\$0.00	\$0.00	\$0.00
Jorge Guzman Gonzalez	\$0.00	\$0.00	\$0.00
Crispin Bedolla Ruiz	\$0.00	\$0.00	\$0.00
Andrés Ruiz	\$0.00	\$0.00	\$0.00
Edgar Solano	\$0.00	\$0.00	\$0.00
Luis Delgado Solano	\$0.00	\$0.00	\$0.00
Joe Lucas	\$88.96	\$50.00	\$1.04
Jerod Wiegand	\$328.07	\$800.00	\$3.30
Ruben Ernesto Reza	\$22.33	\$75.00	\$0.19
Benjamin Baeza	\$304.08	\$150.00	\$6.72
Gilberto Chon-Garcia	\$0.00	\$0.00	\$0.00
Arturo Diaz	\$0.00	\$0.00	\$0.00
Miguel Martinez Martinez	\$0.00	\$0.00	\$0.00
Jaimc Luis Gonzalez	\$341.21	\$625.00	\$7.57
Arnold Wayne Mullins	\$442.52	\$150.00	\$8.29
Scott Albany	\$100.46	\$225.00	\$0.83
Silvano Ramirez Jr.	\$245.58	\$450.00	\$2.04
Feliciano Viana	\$111.63	\$225.00	\$0.93
Victor Andujo	\$243.58	\$225.00	\$2.22
Leovardo Ayala	\$164.20	\$225.00	\$1.63

Felipe Cano	\$773.05	\$750.00	\$6.11
Joss Cobos	\$22.33	\$75.00	\$0.19
Joseph Ernesto Reza	\$0.00	\$0.00	\$0.00
Pedro Maciel	\$0.00	\$0.00	\$0.00
Richard Bianchi	\$0.00	\$0.00	\$0.00
Juan Alberto Sagastume	\$8,156.35	\$9,950.00	\$0.46
Jaime Gandara	\$0.00	\$0.00	\$0.00
Juan Jose Benavides	\$18.16	\$100.00	\$0.00
Richard Romero Calderon	\$18.16	\$50.00	\$0.00
Ralph Lopez	\$77.14	\$100.00	\$0.74
Aaron Emilio Trevino	\$61.60	\$100.00	\$1.44
Thomas Plaggomeyer	\$534.00	\$150.00	\$5.20
Humberto Green Contreras	\$0.00	\$0.00	\$0.00
Bryant Pajardo	\$0.00	\$0.00	\$0.00
Juan Aguirre	\$148.43	\$225.00	\$2.93
Alberto Ramirez	\$68.06	\$50.00	\$0.74
John Than Duong	\$0.00	\$0.00	\$0.00
Manuel Montejano Padilla	\$0.00	\$0.00	\$0.00
Thomas Ramirez	\$0.00	\$0.00	\$0.00
Mark Tran	\$0.00	\$0.00	\$0.00
TOTALS	\$14,845.98	\$22,400.00	\$59.26

DIRECTIONS

1. The sum of the amounts on the total line of \$37,305.24 has been determined to be due for underpayment of prevailing wages on the above referenced project.
2. Issue one check for each employee, made payable to that employee only, based on the gross amount listed in the wage restitution column.
3. Issue one check payable to the City of Los Angeles for the sum of the total line \$22,400.00.
4. Issue one check payable to the California Apprenticeship Council for the sum of \$59.26.
5. Please contact the Office of Contract Compliance in order to discuss this assessment, or if you wish, you may mail all checks promptly to the following address:

Office of Contract Compliance
 Attention Chris Jenson
 1149 South Broadway, Suite 300
 Los Angeles, CA 90015

ATTACHMENT D

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Law Office of Ellyn Moscovitz

July 30, 2007

Via Email and US Mail

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Barbara Ringness Gadbois
Gibbs Giden Locher et al
2029 Century Park E #3400
Los Angeles, CA 90067

Re: SR-710 Mitigation Project

Dear Council Members:

I am writing on behalf of IBEW Local 11 to follow-up on your council meeting of July 23rd, and to assist you in preparing for your August 6th meeting.

As you know, we believe the City of Pasadena would be making a huge mistake to use Manuel Brothers for the above project because they are not a "responsible" contractor. They have on-going investigations with the City of Los Angeles for labor violation fines and penalties imposed on them by the City of Los Angeles. As you heard at the City Council meeting, these violations concerned misclassification and apprenticeship issues.

While Manuel Brothers tried to minimize these issues and persuade the council such violations are "minor and typical" they are in fact the basis of unfair competition. The way Manuel Brothers and other such contractors become the lowest bidder is by planning on the misclassification of higher skilled crafts as "laborers." This was not a "mistake" but a carefully calculated plan to become the lowest bidder. Once these contractors obtain the lowest bid, they may later have to rectify some of their wages (if they are caught) or they submit numerous "change orders" to the awarding agency which in the end results in a higher bid than the next lowest bidder.

This also implicates Labor Code section 2810, which can result in direct liability to the City of Pasadena as the entity which contracts with Manuel Brothers for any labor code violations that occur on the job. The City can be fined under this provision as a result of any illegal labor code violations by Manuel Brothers. Given that they have a demonstrated history of violations with the City of Los Angeles and Cal Trans District 7, why would the Council want to take this risk?

Manuel Brothers was also not responsive to the requirements of the bid because they did not include various subcontract bidding and listing per Public Contracts Code 4104, and they must use at least 50% of the contract price with their own workers. While there is no question they could perform the overall job as an "A" license contractor, they must still "self-perform" 50% of the work. They must by necessity sub-contract out the C-10 electrical work on the job because they cannot self-perform it because they do not employ state certified electricians. That is why they have a sub-contract bid in their overall bid to Par Electric, a C-10 contractor.

However, electrical work, requiring state certified electricians make up 85% of the overall work on the project. It is heavy with conduit and electrical work. Bid items 1-81 indicate how much electrical work is necessary on the job, work laborers cannot do. Thus, Manuel Brothers cannot possibly "self-perform" 50% of the work on this contract and still

July 30, 2007

Page - 3 -

meet state law requirement for the use of certified electricians for this type of work.

We do not believe the city needs to send this out for new bids because specific licenses were not discussed in the bid. The implicit need for using C-10 electrical contractors is there in the bid based on the scope of work described. No one knowledgeable in the field of intelligent transportation systems would believe they could perform this work without state certified electricians or C-10 contractors who employ them. Manuel Brothers does not have the required C-10 license to do electrical work. The Intelligent Transportation systems work is all under the scope of IBEW and IBEW/NECA joint apprenticeship program which is the only state approved apprenticeship program in this field. Manuel Brothers must use state certified electricians and apprentices to perform this work which it cannot do since it does not employ certified electricians. In the past, they have misclassified such work as "laborer" work to get around these legal requirements, resulting in the back wages and fines, which again, the City can end up paying under Labor Code section 2810.

Manuel Brothers failed to use apprentices for work with the City of Los Angeles, which are grounds for debarment from public works jobs entirely. The City is investigating this as well. Mr. Tiel, VP of Operations for Manuel Brothers stated at the meeting he knows the form he was supposed to use to request apprentices, which is a DAS 140 or 142. He had "examples" of the forms. But what he did not say is he never has submitted these forms to IBEW Local 11's apprenticeship program. Ask Manuel Brothers to submit proof of ever having requested apprentices from Local 11's JATC. They will be unable to show this.

The City Council seemed concerned that if it is satisfied Manuel Brothers is deemed not to be a "responsible" contractor, and they go with the next lowest bidder TERNO INC., they could face a lawsuit from Manuel Brothers. But as indicated your counsel, the standard of review for a writ of mandate is "abuse of discretion" and only 3% of writs are ever granted. The City faces far more legal liability if it goes with Manuel Brothers than if it doesn't.

Finally, although it was not raised at the City Council meeting, we are extremely distressed by the appearance of the conflict of interest here that the legal counsel for Manuel Brothers, Phillip Putnam is on the City Council for South Pasadena which is also impacted by this project. That is just a little

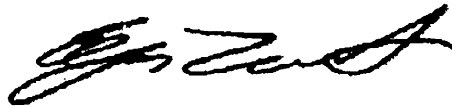
July 30, 2007

Page - 4 -

too close for comfort. Such appearances deserve to be further investigated to make sure this is not some type of "payola" situation.

For all these reasons, we urge you to choose a responsible contractor such as TERNO INC., who meets all of the City's requirements and has a clean record.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellyn Moscovitz". The signature is fluid and cursive, with the first name being the most prominent.

Ellyn Moscovitz

Cc: Barbara Gadbois
Martin Pastucho
Michelle Bagneris
Marvin Kropke/Pat Owens/Kim Kraft-IBEW Local 11
Tim Erno, TERNO INC.