

RESOLUTION NO. 2016-122

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AWARDING CONSTRUCTION CONTRACT TO LEE WILSON ELECTRIC COMPANY, INC. OF ARROYO GRANDE, CALIFORNIA, IN THE AMOUNT OF \$91,300 IN ACCORDANCE WITH THE FEDERAL AVIATION ADMINISTRATION (FAA) 2016 AIRPORT IMPROVEMENT PROJECT GRANT FOR THE AIRPORT BEACON REPLACEMENT PROJECT, AUTHORIZING FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES AND AUTHORIZING CITY MANAGER TO EXECUTE CONSTRUCTION CONTRACT DOCUMENTS AND CHANGE ORDERS AND ANY FURTHER REQUIRED GRANT APPLICATION DOCUMENTS ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY

WHEREAS, at a regular meeting of December 15, 2015, the City Council adopted Resolution No. 2015-139, accepting and authorizing submission of the revised Five (5) Year Airport Capital Improvement Plan (ACIP) for Federal Aviation Administration (FAA) grant funded airport improvement projects and authorizing submission of a grant application to FAA for the 2016 designated project to replace the Airport lighting beacon and pole and to perform a Pavement Maintenance Management Plan (PMMP) for Marina Municipal Airport; and

WHEREAS, in accordance with FAA requirements and the prepared ACIP, staff prepared, gained council approval of, and submitted a grant application in December 2015, based in part on the engineer's estimate for the replacement of the Airport lighting beacon, including construction and installation of the improvements together with engineering, design, construction management, and inspection of the construction effort, and for preparation of the PMMP indicating the City of Marina's intent to proceed with the grant funded improvement projects; and

WHEREAS, at a regular meeting of March 15, 2016, the City Council adopted Resolution No. 2016-29, approving a professional services agreement between City of Marina and Tartaglia Engineering, of Atascadero, California, in the amount of \$83,700 for preliminary engineering, surveying, engineering design, preparation of plans and specifications, bidding support, construction administration, inspection, and materials testing services for the beacon replacement project and for preparation of an airfield PMMP; and

WHEREAS, at a regular meeting of May 17, 2016, the City Council adopted Resolution No. 2016-70, accepting the construction contract documents and authorizing staff to proceed with the public bidding process, and; authorizing preparation and submission of a revised grant application to the FAA based on bids received, and; authorizing preparation and submission of a State of California (CalTrans) match grant based on a proportional amount of the federal grant application, and; authorizing the City Manager to execute the referenced grant applications for the 2016 designated projects – Airport Beacon and Pavement Maintenance Management Plan - , at Marina Municipal Airport; and

WHEREAS, on June 21, 2016, two (2) bids were received, opened and publicly read for the Airport beacon replacement project. The bid of Kobo was considered conditionally responsive while the bid of Lee Wilson was found to be responsive. The two bids are as follows:

Kobo Utility Construction Corp.	\$85,500
Lee Wilson Electric Company, Inc.	\$91,300
Engineer's Estimate:	\$76,300 ; and

WHEREAS, the apparent, conditionally responsive low bidder is Kobo in the amount of \$85,500; and

WHEREAS, during the course of review of bids received, and through consultation with and input from Tartaglia Engineering and the City Attorney's office, it was determined that bids received reflect the current construction environment, with the additional cost over the engineers estimate but that Kobo is not currently licensed by the California Contractors State License Board (CSLB) or registered with the California Department of Industrial Relations (DIR). California Public Contract Code Section 20103.5 and California Labor Code Section 1771.1 provide that for contracts involving federal funds, such as the Airport beacon replacement project, the successful bidder must be properly licensed by the CSLB (a C-10 Electrical contractor's license is required for the project) and registered with the DIR in order to be eligible to perform work on a California public works project; and

WHEREAS, accordingly, and as communicated to Kobo in a letter dated July 25, 2016, in order to be eligible to receive the award for the Project Kobo must provide documentary proof by close of business (5:00 PM Pacific Daylight Time) on August 3, 2016, the expected date for the award of the beacon replacement project, that it is: 1) licensed by the CSLB; and 2) registered with the DIR ("**EXHIBIT A**"); and

WHEREAS, Kobo failed to meet the State of California legal requirements to be awarded the project, therefore the recommendation is to award a contract to Lee Wilson Electric Company, Inc. of Arroyo Grande, California in the amount of \$91,300; and

WHEREAS, the total estimated cost for the Airport beacon replacement project and preparation of an airfield PMMP is \$166,667. Funding includes a FAA grant in the amount of \$150,000 (90%), a State Caltrans match in the amount of \$7,500 (5% of federal amount), and local match from the Airport Enterprise Fund in the amount of \$9,167 (balance), with the local match amount increased to \$16,667 in the event CalTrans does not participate; and

WHEREAS, based on the contract award, the adopted FY 2016-17 Budget, Airport Capital Projects Fund 460, 2016 Beacon Replacement Project #460, will be amended and the adopted FY 2016-17 Budget, Airport Operating Fund 555 will be amended to transfer the appropriate local match amount to Airport CIP Fund 460, 2016 Beacon Replacement Project #460. Actual revenues and expenditures will be recorded accordingly.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Award construction contract to Lee Wilson Electric Company, Inc. of Arroyo Grande, California, in the amount of \$91,300 in accordance with the Federal Aviation Administration (FAA) 2016 Airport Improvement Project Grant for the Airport Beacon Replacement Project; and
2. Authorize Finance Director to make necessary accounting and budgetary entries as necessary; and
3. Authorize City Manager to execute construction contract documents and change orders and any further grant application documents on behalf of the City, subject to final review and approval by City Attorney.

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PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 3rd day of August 2016, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Delgado

NOES, COUNCIL MEMBERS: Morton, O'Connell

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of August 3, 2016

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-, AWARDING CONSTRUCTION CONTRACT TO KOBO UTILITY CONSTRUCTION CORP. (“KOBO”) OF SANDWICH, MASSACHUSETTS, IN THE AMOUNT OF \$85,500, PROVIDED KOBO MEETS THE STATE OF CALIFORNIA LEGAL LICENSING AND REGISTRATION REQUIREMENTS AT THE TIME THE CONTRACT IS AWARDED; OR, IN THE ALTERNATIVE, AWARDING CONSTRUCTION CONTRACT TO LEE WILSON ELECTRIC COMPANY, INC. OF ARROYO GRANDE, CALIFORNIA, IN THE AMOUNT OF \$91,300 IN ACCORDANCE WITH FEDERAL AVIATION ADMINISTRATION (FAA) 2016 AIRPORT IMPROVEMENT PROJECT GRANT FOR THE AIRPORT BEACON REPLACEMENT PROJECT; AUTHORIZING FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES; AND AUTHORIZING CITY MANAGER TO EXECUTE CONSTRUCTION CONTRACT DOCUMENTS AND CHANGE ORDERS AND ANY FURTHER REQUIRED GRANT APPLICATION DOCUMENTS ON BEHALF OF THE CITY, SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2016-, awarding a construction contract to Kobo Utility Construction Corp. (“Kobo”) of Sandwich, Massachusetts, in amount of \$85,500; provided KOBO meets the State of California legal licensing and registration requirements at the time the contract is awarded; or, in the alternative, awarding construction contract to Lee Wilson Electric Company, Inc. of Arroyo Grande, California, in the amount of \$91,300 in accordance with the Federal Aviation Administration (FAA) 2016 Airport Improvement Project Grant for the Airport Beacon Replacement Project; and
2. Authorizing Finance Director to make necessary accounting and budgetary entries; and
3. Authorizing City Manager to execute construction contract documents and change orders and any further required grant application documents on behalf of the City, subject to final review and approval by City Attorney.

BACKGROUND:

At a regular meeting of December 15, 2015, the City Council adopted Resolution No. 2015-139, accepting and authorizing submission of the revised Five (5) Year Airport Capital Improvement Plan (ACIP) for Federal Aviation Administration (FAA) grant funded airport improvement projects and authorizing submission of a grant application to FAA for the 2016 designated project to replace the Airport lighting beacon and pole and to perform a Pavement Maintenance Management Plan (PMMP) for Marina Municipal Airport.

In accordance with FAA requirements and the prepared ACIP, staff prepared, gained council approval of, and submitted a grant application in December 2015, based in part on the engineer’s estimate for the replacement of the Airport lighting beacon, including construction and installation of the improvements together with engineering, design, construction management, and inspection of the construction effort, and for preparation of the PMMP indicating the City of Marina’s intent to proceed with the grant funded improvement projects.

At a regular meeting of March 15, 2016, the City Council adopted Resolution No. 2016-29, approving a professional services agreement between City of Marina and Tartaglia Engineering, of Atascadero, California, in the amount of \$83,700 for preliminary engineering, surveying, engineering design, preparation of plans and specifications, bidding support, construction administration, inspection, and materials testing services for the beacon replacement project and for preparation of an airfield PMMP.

At a regular meeting of May 17, 2016, the City Council adopted Resolution No. 2016-70, accepting the construction contract documents and authorizing staff to proceed with the public bidding process, and; authorizing preparation and submission of a revised grant application to the FAA based on bids received, and; authorizing preparation and submission of a State of California (CalTrans) match grant based on a proportional amount of the federal grant application, and; authorizing the City Manager to execute the referenced grant applications for the 2016 designated projects – Airport Beacon and Pavement Maintenance Management Plan - , at Marina Municipal Airport.

On June 21, 2016, two (2) bids were received, opened and publicly read for the Airport beacon replacement project. The bid of Kobo was considered conditionally responsive while the bid of Lee Wilson was found to be responsive. The two bids are as follows:

Kobo Utility Construction Corp.	\$85,500
Lee Wilson Electric Company, Inc.	\$91,300
Engineer's Estimate:	\$76,300

ANALYSIS:

The apparent, conditionally responsive low bidder is Kobo in the amount of \$85,500.

During the course of review of bids received, and through consultation with and input from Tartaglia Engineering and the City Attorney's office, it was determined that bids received reflect the current construction environment, with the additional cost over the engineers estimate but that Kobo is not currently licensed by the California Contractors State License Board (CSLB) or registered with the California Department of Industrial Relations (DIR). California Public Contract Code Section 20103.5 and California Labor Code Section 1771.1 provide that for contracts involving federal funds, such as the Airport beacon replacement project, the successful bidder must be properly licensed by the CSLB (a C-10 Electrical contractor's license is required for the project) and registered with the DIR in order to be eligible to perform work on a California public works project.

Accordingly, and as communicated to Kobo in a letter dated July 25, 2016, in order to be eligible to receive the award for the Project Kobo must provide documentary proof by close of business (5:00 PM Pacific Daylight Time) on August 3, 2016, the expected date for the award of the beacon replacement project, that it is: 1) licensed by the CSLB; and 2) registered with the DIR ("**EXHIBIT A**").

Therefore, provided staff receives documented proof of licensing and registration, the recommendation is to award a contract to Kobo in the amount of \$83,500; however, should Kobo fail to meet the State of California legal requirements to be awarded the project, the recommendation is to award a contract to Lee Wilson Electric Company, Inc. of Arroyo Grande, California in the amount of \$91,300.

To this point, staff has prepared and included two resolutions to allow for either award of the project.

FISCAL IMPACT:

Should the City Council approve this request, the total estimated cost for the Airport beacon replacement project and preparation of an airfield PMMP is \$166,667. Funding includes a FAA grant in the amount of \$150,000 (90%), a State Caltrans match in the amount of \$7,500 (5% of federal amount), and local match from the Airport Enterprise Fund in the amount of \$9,167 (balance), with the local match amount increased to \$16,667 in the event CalTrans does not participate.

Based on the contract award, the adopted FY 2016-17 Budget, Airport Capital Projects Fund 460, 2016 Beacon Replacement Project #460, will be amended and the adopted FY 2016-17 Budget, Airport Operating Fund 555 will be amended to transfer the appropriate local match amount to Airport CIP Fund 460, 2016 Beacon Replacement Project #460. Actual revenues and expenditures will be recorded accordingly.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Jeff Crechriou
Airport Services Manager
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

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WHEREAS, in accordance with FAA requirements and the prepared ACIP, staff prepared, gained council approval of, and submitted a grant application in December 2015, based in part on the engineer's estimate for the replacement of the Airport lighting beacon, including construction and installation of the improvements together with engineering, design, construction management, and inspection of the construction effort, and for preparation of the PMMP indicating the City of Marina's intent to proceed with the grant funded improvement projects; and

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WHEREAS, on June 21, 2016, two (2) bids were received, opened and publicly read for the Airport beacon replacement project. The bid of Kobo was considered conditionally responsive while the bid of Lee Wilson was found to be responsive. The two bids are as follows:

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Lee Wilson Electric Company, Inc.	\$91,300

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WHEREAS, the apparent, conditionally responsive low bidder is Kobo in the amount of \$85,500; and

WHEREAS, during the course of review of bids received, and through consultation with and input from Tartaglia Engineering and the City Attorney's office, it was determined that bids received reflect the current construction environment, with the additional cost over the engineers estimate but that Kobo is not currently licensed by the California Contractors State License Board (CSLB) or registered with the California Department of Industrial Relations (DIR). California Public Contract Code Section 20103.5 and California Labor Code Section 1771.1 provide that for contracts involving federal funds, such as the Airport beacon replacement project, the successful bidder must be properly licensed by the CSLB (a C-10 Electrical contractor's license is required for the project) and registered with the DIR in order to be eligible to perform work on a California public works project; and

WHEREAS, accordingly, and as communicated to Kobo in a letter dated July 25, 2016, in order to be eligible to receive the award for the Project Kobo must provide documentary proof by close of business (5:00 PM Pacific Daylight Time) on August 3, 2016, the expected date for the award of the beacon replacement project, that it is: 1) licensed by the CSLB; and 2) registered with the DIR ("**EXHIBIT A**"); and

WHEREAS, staff received documented proof of licensing and registration, therefore the recommendation is to award a contract to Kobo in the amount of \$83,500; and

WHEREAS, the total estimated cost for the Airport beacon replacement project and preparation of an airfield PMMP is \$166,667. Funding includes a FAA grant in the amount of \$150,000 (90%), a State Caltrans match in the amount of \$7,500 (5% of federal amount), and local match from the Airport Enterprise Fund in the amount of \$9,167 (balance), with the local match amount increased to \$16,667 in the event CalTrans does not participate; and

WHEREAS, based on the contract award, the adopted FY 2016-17 Budget, Airport Capital Projects Fund 460, 2016 Beacon Replacement Project #460, will be amended and the adopted FY 2016-17 Budget, Airport Operating Fund 555 will be amended to transfer the appropriate local match amount to Airport CIP Fund 460, 2016 Beacon Replacement Project #460. Actual revenues and expenditures will be recorded accordingly.

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Page Three

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 3rd day of August 2016, by the following vote:

AYES, COUNCIL MEMBERS:
NOES, COUNCIL MEMBERS:
ABSENT, COUNCIL MEMBERS:
ABSTAIN, COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

TARTAGLIA ENGINEERING

7360 El Camino Real, Suite E • P.O. BOX 1930 • Atascadero, CA 93422
Phone: 805-466-5660 • civilengineers@tartaglia-engineering.com

By Certified Mail, Return Receipt Requested
And by email to john@tartaglia-engineering.com

July 25, 2016

Mr. Kevin O'Neil
President
Kobo Utility Construction Corp.
4 Victory Drive
PO Box 578
Sandwich, MA 02563

Subject: Award of the Airport Beacon Project, Marina Municipal Airport, Marina, California.

Dear Mr. O'Neil:

This letter concerns the bid submitted by Kobo Utility Construction Corp. for the Airport Beacon Project (the "Project") at Marina Municipal Airport. Kobo Utility Construction Corp. has been determined to be the lowest bidder for the Project for which bids were opened for this public work on June 21, 2016. Staff is currently preparing a report and agenda item to recommend award of a contract for the Project to Kobo Utility Construction Corp. and staff will request the City Council to consider awarding the contract for the Project to Kobo Utility Construction Corp. at the Council's regular meeting on August 3, 2016.

However, it has come to staff's attention that at the present time Kobo Utility Construction Corp. is not licensed by the California Contractors State License Board to perform the work of the Project (a C-10 Electrical license classification in the name of the Kobo Utility Construction Corp. is required) nor is Kobo Utility Construction Corp. registered with the California Department of Industrial Relations to perform work on a California public works project.

California Public Contract Code Section 20103.5 (copy enclosed) provides that for contracts where federal funds are involved, such as the contract for the Project, the successful bidder must be properly licensed by the Contractors State License Board in accordance with California law at the time the contract is awarded.

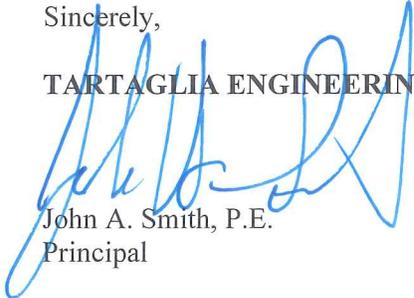
California Labor Code Section 1771.1 (copy enclosed) provides that the requirement of Labor Code Section 1725.5 that contractors submitting bids on a California public work must be registered with the Department of Industrial Relations at the time the bid is submitted is not violated for a bid submitted under the authority of Public Contract Code Section 20103.5 provided the contractor is registered to perform public work at the time the contract is awarded.

Accordingly, in order to be eligible to receive the award for the Project, Kobo Utility Corp. must provide documentary proof by close of business (5:00 P.M. Pacific Daylight Time) on August 3, 2016, that it is: (1) properly licensed by the Contractors State License Board; and (2) registered with the Department of Industrial Relations. Please contact the undersigned as soon as possible to confirm whether Kobo Utility Construction Corp. expects to be in compliance with the above requirements.

Your immediate attention to these matters is appreciated.

Sincerely,

TARTAGLIA ENGINEERING



John A. Smith, P.E.
Principal

Enclosures (2)

JAS:rwr

Cc: City Manager
Airport Services Manager

West's Annotated California Codes

Public Contract Code (Refs & Annos)

Division 2. General Provisions (Refs & Annos)

Part 3. Contracting by Local Agencies (Refs & Annos)

Chapter 1. Local Agency Public Construction Act (Refs & Annos)

Article 1. Title (Refs & Annos)

West's Ann.Cal.Pub.Con.Code § **20103.5**

§ **20103.5**. Contracts involving federal funds; failure to obtain license; penalties

Currentness

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement. Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

Credits

(Added by Stats.1990, c. 321 (S.B.929), § 2, eff. July 17, 1990. Renumbered § **20103.5** and amended by Stats.1990, c. 1414 (A.B.4165), § 1.)

West's Ann. Cal. Pub. Con. Code § **20103.5**, CA PUB CONT § **20103.5**

Current with urgency legislation through Chapters 1-41 and 43-59 of 2016 Reg.Sess., Ch. 8 of 2015-2016 2nd Ex.Sess., and all propositions on the 6/7/2016 ballot.

West's Annotated California Codes

Labor Code (Refs & Annos)

Division 2. Employment Regulation and Supervision (Refs & Annos)

Part 7. Public Works and Public Agencies (Refs & Annos)

Chapter 1. Public Works (Refs & Annos)

Article 2. Wages (Refs & Annos)

West's Ann.Cal.Labor Code § 1771.1

§ 1771.1. Registration as a contractor or subcontractor required prior to bid submission; exceptions; substitutions; Internet listing of registered contractors

Effective: June 20, 2014

Currentness

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of [Section 4104 of the Public Contract Code](#), or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to [Section 1725.5](#). It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by [Section 7029.1 of the Business and Professions Code](#) or by [Section 10164 or 20103.5 of the Public Contract Code](#), provided the contractor is registered to perform public work pursuant to [Section 1725.5](#) at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to [Section 1725.5](#).

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to [Section 1725.5](#) in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in [subparagraph \(E\) of paragraph \(2\) of subdivision \(a\) of Section 1725.5](#).

(3) The subcontractor is replaced by another registered subcontractor pursuant to [Section 4107 of the Public Contract Code](#).

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under [Section 4107 of the Public Contract Code](#) for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to [Section 1725.5](#) in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to [Section 1725.5](#).

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of [Section 1725.5](#) or this section.

(g) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015.

Credits

(Added by [Stats.2014, c. 28 \(S.B.854\)](#), § 63, eff. June 20, 2014.)

Editors' Notes

APPLICATION

<For application of this section to bid proposals submitted on or after March 1, 2015 and contracts for public work entered into on or after April 1, 2015, see its terms.>

West's Ann. Cal. Labor Code § 1771.1, CA LABOR § 1771.1

Current with urgency legislation through Chapters 1-41 and 43-59 of 2016 Reg.Sess., Ch. 8 of 2015-2016 2nd Ex.Sess., and all propositions on the 6/7/2016 ballot.