
FW: 9365 Fossa Night House - VNH Builders Info For Attending Council Meeting 12/9/25 Agenda Number 25-993

From City Clerk <city.clerk@sanjoseca.gov>
Date Mon 12/8/2025 10:34 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

From: bruno.vieira([REDACTED])
Sent: Monday, December 8, 2025 10:26 AM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Re: 9365 Fossa Night House - VNH Builders Info For Attending Council Meeting 12/9/25 Agenda Number 25-993

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Agenda Number is 25-1285



Bruno Vieira | VNH Builders
[REDACTED]

From: bruno.vieira([REDACTED])
Sent: Monday, December 8, 2025 10:17 AM
To: city.clerk@sanjoseca.gov <city.clerk@sanjoseca.gov>
Subject: 9365 Fossa Night House - VNH Builders Info For Attending Council Meeting 12/9/25 Agenda Number 25-993

My name is Bruno Vieira, Principal of VNH Builders. I am here today to request the City Council's intervention regarding serious violations of California law being committed by City staff against my company.

THE SITUATION

For the past eight months, the City of San Jose has completely withheld all payments on our \$663,708 contract to build the Fossa Night House at Happy Hollow Park & Zoo. We completed work months ago. The project is essentially finished. Yet we have received zero payment since February 2025.

This payment freeze is destroying my business. We cannot pay our workers, our suppliers, or our bills. We have been forced to take out emergency loans at premium interest rates just to survive. This eight-month stranglehold has cost us over \$240,000 in damages and continues to grow every day.

WHY THE CITY IS WITHHOLDING PAYMENT

The Office of Equality Assurance issued a Notice of Violation alleging prevailing wage violations totaling \$26,063.07 - less than 4% of the contract value. Even if this amount were correct, which we

dispute, the City is withholding 100% of payments for a claimed 4% issue.

More troubling: the City has accused VNH of operating a criminal cash kickback scheme - claiming we force workers to return portions of their wages after cashing checks. These are extraordinarily serious criminal allegations. Yet the City provides zero evidence. No bank records. No financial documentation. Only anonymous, unverifiable worker statements that we cannot examine or challenge.

THE CITY'S VIOLATIONS OF LAW

The City's actions violate multiple California statutes:

1. **Public Contract Code Section 20104.50:** Requires payment within 30 days. The City has violated this for 240+ consecutive days. We are owed 16% statutory penalties plus attorney fees.
2. **Public Contract Code Section 7107:** Limits retention to amounts reasonably necessary to protect the public entity. The City cannot withhold 100% of payments for a disputed 4%.
3. **Due Process Violations:** The City suspended all payments without a proper hearing, without allowing us to confront our accusers, and based on evidence we cannot examine.
4. **Separation of Enforcement:** Prevailing wage violations are enforced by the Labor Commissioner with specific penalties. The City cannot use labor disputes as leverage to stop all contract payments.

WHAT REALLY HAPPENED

The alleged violations involve worker classification disputes and payroll reporting variances - technical issues common in construction that do not reflect criminal intent. We classified workers based on the work they actually performed. The City disagrees with some classifications. This is a matter for administrative resolution, not financial warfare.

Regarding the cash kickback allegations: We categorically deny these claims. No evidence supports them. We have never engaged in any scheme to take back wages from workers. These unfounded accusations have already damaged our reputation in the construction community and appear designed to justify the City's improper payment withholding.

We have requested the names of workers who allegedly made these statements so we can investigate. The City refuses to provide this information. We have requested the interview notes and recordings. The City has not produced them. How can we defend ourselves against anonymous accusations?

THE IMPACT ON VNH BUILDERS

This eight-month payment freeze has:

5. Forced us to secure emergency financing at rates we cannot sustain long-term
6. Damaged our relationships with suppliers and subcontractors who have not been paid
7. Prevented us from bidding on new projects because our bonding capacity is tied up
8. Required us to decline over \$500,000 in new project opportunities
9. Harmed our reputation through unfounded criminal allegations
10. Cost us over \$240,000 in financing charges, lost opportunities, and legal fees

This is not contract administration. This is financial destruction.

WHAT WE ARE REQUESTING

We respectfully request that the City Council:

11. **Direct immediate release of contract payments** for undisputed work, with retention limited to 150% of the disputed \$26,063.07 amount as required by law.
12. **Order withdrawal of the criminal kickback allegations** unless the City can produce actual evidence beyond anonymous statements.

13. **Require OEA to provide complete investigation materials** including worker interview transcripts so we can properly defend ourselves.
14. **Direct compliance with Public Contract Code Section 20104.50** and pay the statutory penalties owed for 240+ days of late payment.
15. **Establish oversight** to ensure City departments follow California law when withholding contractor payments.

CONCLUSION

VNH Builders is a licensed, bonded contractor that has worked on numerous public projects. We take our obligations seriously. If we made administrative errors in payroll reporting, we will correct them. If workers were inadvertently underpaid, we will make it right.

But what the City is doing to us goes far beyond contract enforcement. This is a systematic violation of California law designed to force a small contractor into submission or bankruptcy. No contractor should be subjected to this treatment.

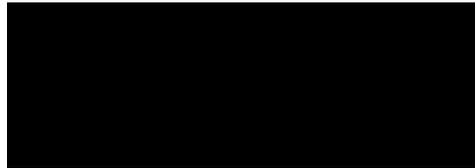
Eight months without payment for a completed project. Criminal accusations without evidence. Refusal to provide basic due process. This cannot be allowed to continue.

We are asking for what California law already guarantees us: payment for work performed, due process, and the right to confront our accusers. We are asking the Council to ensure that City staff complies with the law.

Sincerely,



Bruno Vieira | VNH Builders



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