RESOLUTION - ACTION REQUESTED 2018-86

MEETING: March 6, 2018
TO: The Board of Supervisors
FROM: Steve Dahlem, County Counsel - Interim Human Resources Director
RE: Rejection of Claim No. C17-09 Claimant: Neil L. Anstead

RECOMMENDATION AND JUSTIFICATION:
Reject Claim No. C17-09 presented by Neil L. Anstead in the Amount of $40,492.50; and authorize the Board of Supervisors Chair to sign the Notice of Rejection.

The claimant alleges property damage due to improper County maintenance of a rain culvert on Yosemite Park Way in Yosemite West. The claimant failed to meet the burden of proof of liability; therefore, it is recommended that this claim be rejected.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has previously rejected unsubstantiated claims.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ATTACHMENTS:
Claim No. C17-09 Neil L. Anstead (PDF)
Notice of Rejection - Anstead (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey
EXCUSED: Kevin Cann
COUNTY OF MARIPosa CLAIM FORM

CLAIM OF  Neil L. Anstead ("Claimant")

(Claimant)

v.

COUNTY OF MARIPosa

________________________

CLAIM FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE
(Government Code § 910)

©17-09

TO THE BOARD OF SUPERVISORS OF MARIPosa COUNTY:

YOU ARE HEREBY NOTIFIED that:  (Please type or print)

Claimant: Neil L. Anstead ("Claimant")

Whose address is: 7417 Yosemite Park Way

City and State: Yosemite National Park  Zip:  CA 95389

claims damages from the COUNTY OF MARIPosa in the amount, computed as of the date of presentation of this claim, of $40,492.00 .

This claim is based on: (CHECK APPROPRIATE BOX OR BOXES)

☐ Property Damage  ☐ Other (Please List)

☐ Personal Injury  collection of John Muir books

☐ Contract

which occurred on March 5, 2017 in the vicinity of (place where incident occurred):

7417 Yosemite Park Way, Yosemite National Park, CA 95389

(PLACE WHERE INCIDENT OCCURRED)

Describe generally the facts and circumstances that give rise to the claim: (Please provide another page if more space is needed.)

The Claimant previously submitted his claim on March 20, 2017. The County of Mariposa informs the Claimant that it was not able to locate the previously submitted claim of the Claimant. The County of Mariposa has supervision of and responsibility for road work and surface water drainage improvements where Yosemite Park Way, a county road, is located. The real property of the Claimant located at 7417 Yosemite Park Way, in Yosemite National Park, was damaged by flood and storm waters diverted onto the Claimant's property by the culvert negligently installed and/or maintained by the County of Mariposa during a rain storm, which occurred on March 5, 2017.

The name(s) of the public employee(s) causing claimant's injuries or damages under the above-described circumstances is/are:

At this time, the names of the public employees of the County of Mariposa responsible for the Claimant's damages are unknown.

Claim Form, Revised 12/04/2013
The injuries sustained by claimant, as far as known, as of the date of presentation of this claim consist of:
(Describe generally claimant’s injuries or damages.)

Negligent installation and/or maintenance of the above-referenced culvert by the County of Mariposa caused
water damage to the real property and improvements owned by the Claimant, including without limitation,
flooring, carpet, dry wall, kitchen, bathroom. Additionally, the Claimant’s collection of John Muir books was
damaged. Copies of the photos depicting some of the above-referenced damage to the Claimant’s property are
enclosed herewith.

The amount claimed, as of the date of presentation of this claim is computed as follows:

**Damages incurred to date:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenses for medical and hospital care</td>
<td>$0.00</td>
</tr>
<tr>
<td>Loss of earnings</td>
<td>N/A</td>
</tr>
<tr>
<td>Specific damages (ITEMIZE &amp; PROVIDE 3 REPAIR ESTIMATES)</td>
<td></td>
</tr>
<tr>
<td>demo, insulation, drywall, kitchen repairs</td>
<td>$38,492.50</td>
</tr>
<tr>
<td>bathroom repairs, installation of flooring</td>
<td></td>
</tr>
<tr>
<td>Other damages (ITEMIZE)</td>
<td></td>
</tr>
<tr>
<td>collection of John Muir books</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>TOTAL DAMAGES INCURRED TO DATE</td>
<td>$40,492.50</td>
</tr>
</tbody>
</table>

**Estimated future damages as far as known from this incident:**

Total estimated prospective damages: $ unknown

TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM: $40,492.50

All notices or other communications with regard to this claim should be sent to claimant at:

McGoldrick & McGoldrick, 49239 Golden Oak Loop, Oakhurst, CA 93644

(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

Please return the completed form to: Clerk of the Board, 5100 Bullion St, PO Box 784, Mariposa, CA 95338

**PLEASE NOTE that once submitted, this document becomes a public record and is subject to all forms
of public inspection including, but not limited to, display on the internet, and all public records requests.

Dated: October 5, 2017

Signed: [Signature]

(CLAIMANT/AGENT FOR CLAIMANT)

**Government Code § 911.2. Time of or presentation of claims**

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented
as provided in Article 2 (commencing with § 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than one year after the accrual of the cause of action.
May 30, 2017

Larry Anstead
7417 Yosemite Parkway
Yosemite West, CA 95389
Phone: (209) 372-8603
Email: infarednut@gmail.com

Dear Larry,

RGC Enterprises, Inc. is a licensed, bonded, and insured general building contractor with 3 generations of work experience. We have been serving the area for over 15 years building custom homes, residential remodeling and light commercial work. RGC can work from drawings or help you with the plans and permit process. Should you choose RGC as your general contractor, you can be confident that you will receive friendly professional service, quality workmanship, and an honest job regardless of size.

Thank you for the opportunity to bid your project.

RGC Enterprises, Inc. proposes to perform the following work:

**Water damage to kitchen and bathroom:**
- **Demo:** Remove kitchen and bathroom. Remove and dispose of drywall up to closet along with all insulation. Remove and dispose of carpet.
- **Mold:** Check for mold (mold repair is not in this proposal).
- **Insulation:** Install all new insulation in kitchen and bathroom.
- **Drywall:** Install new drywall, tape, float and texture to be consistent with existing.
- **Kitchen:** Install new cabinet, granite counter top and existing appliances.
- **Bathroom:** Install new vanity, granite counter top, and tile.
- **Flooring:** Install new carpet (allowance: $ 2.00 sq. ft.)

**Material and Labor:** $ 38,492.50

**Not included in the price quoted above:** Engineering, Permit

If you have any questions or would like to discuss scheduling the work please feel free to contact me at (559) 760-4608.

Sincerely,

Randy Graves, Pres.
RGC Enterprises, Inc.
Neil L. Anstead  
c/o McGoldrick & McGoldrick  
49239 Golden Oak Loop  
Oakhurst, CA 93644

NOTICE OF REJECTION OF CLAIM NO. C17-09/NEIL L. ANSTEAD

Notice is hereby given that the claim which you presented to the Board of Supervisors on October 12, 2017 for $40,492.50 was rejected by operation of law on November 26, 2017.

The foregoing was passed by the following vote of the Board on the 6th day of March 2018:

AYES: SMALLCOMBE, JONES, LONG, MENETREY  
NOES: NONE  
ABSENT: CANN  
ABSTAINED: NONE

ROSEMARIE SMALLCOMBE, Chair  
Board of Supervisors

ATTEST:  
APPROVED AS TO FORM:

RENE' LA ROCHE  
Clerk of the Board  
STEVEN W. DAHLEM  
County Counsel

Warning
Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.
Proof of Service by Mail
(1013a, 2015.5 CCP)

STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United States and a resident of the aforesaid County. I am over the age of eighteen years and not a party to the within entitled action; my business address is 4988 11th Street (P.O. Box 1917), Mariposa, CA 95338. On March 12, 2018 I served the within Notice of Rejection of Claim No. C17-09/Neil L. Anstead on the claimant in said action by placing a true copy in a postage-paid envelope addressed to the person(s) hereinafter listed, in California, addressed as follows:

Neil L. Anstead
c/o McGoldrick & McGoldrick
49239 Golden Oak Loop
Oakhurst, CA 93644

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on March 12, 2018 at Mariposa, California.

[Signature]
Donna Wass