



THE MONTEREY CURRENT

July, 2016

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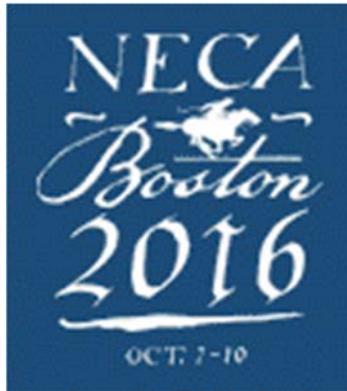
Congratulations to Those Completing Classes

LU #234 Availability List

Calendar of Events



NECA CONVENTION EARLY REGISTRATION OPEN



The schedule for this year's [NECA Convention and Tradeshow](#) has changed to a Friday to Monday schedule with the Board of Governor's Meeting on Friday, October 7th in Boston. Early registration is now open with a discount to those who register before August 18, 2016. Our chapter has been assigned housing at the Boston Intercontinental this year.

The Opening Reception will be held on Friday night.

Guests of NECA will get exclusive access to the Museum of Science, a mecca of revolutionary discovery! By popular demand, the Blue Wing's main stage will feature the return of Milwaukee Tool's *Tool Shed Band*. Light up your night with the intriguing Theater of Electricity sponsored by Southwire – indoor bolts produced by the world's largest air-insulated Van de Graaff generator spark exciting explorations of lightning, conductors, insulators, electricity, magnetism and storm safety.

There is truly something for everyone – interactive exhibits, inspiring encounters and tantalizing cuisine inspired by the regional elements of New England. Heavy hors d'oeuvres will be served along with open bars featuring an outdoor Oktoberfest, sponsored by Thomas & Betts. Join us in this Boston landmark institution that shines a light on history and innovation, and make your own revolutionary discoveries!

To Benefit... Participate!

Independence Day Monday, July 4th

All work performed on this date will be done at double the rate of pay.



NEC 2014 CODE CHANGES

Reprinted from Contra Costa County Chapter

The Contra Costa County Chapter of NECA hosted a Code Committee recently featuring Michael Johnston, Director of Standards and Safety for NECA, Inc., you can access his presentation on the [Most Significant Changes in the 2014 NEC](#), which will become effective in California in January of next year. [Mr. Johnston](#) is Chairman of the NEC Correlating Committee, which makes him the person most responsible for the development of the National Electrical Code to make sure it is practical, enforceable and easily understood. Our NECA members throughout the country are fortunate to

have him in that position. His presentation reflected his unmatched understanding of the subject matter. You will benefit greatly from the [attached material](#).

They also asked Ray Robertson, Chief Electrical Engineer for Contra Costa Electric and Chairman of their Code Committee, to assess the economic impact of the changes in terms of the cost of rework to a contractor who does not take the time to keep up with the changes. Below is a short list of changes Ray believes could cost you a lot of money if you were to learn about them the hard way:

Section 110.26(C)(3) Personnel Doors
Section 110.26 E(2)a&b Dedicated Equipment Space
Section 200.4 B Multiple Circuits
Section 210.8 (A)(10) Laundry Areas
Section 210.8 (D) Kitchen Dishwasher Branch Circuit
Section 210.12 (A) Kitchen and Laundry
Section 210.13 GFPE
Section 250.64 (D)(1)& (3) Busbar Lengths
Section 250.167 DC Ground Fault Detection
Article 393 Low Voltage Suspended Ceiling Power Systems (this will probably be a disputed scope of work between crafts)
Section 424.66(B) Limited Access
Section 517.18 (B) Patient Bed Location
Receptacles First Revision
Slide Section 517.18 (B) Patient Bed

Location Receptacles
Second Revision Slide
Section 517.19 (C)
Operating Room
Receptacles



RETENTION

What You Get And When You Get It

John McGill

Retention is a common enough provision in construction contracts that it needs little introduction. It's the percentage amount that the Owner holds back from the General's progress payment and that the General holds back from the subcontractor's progress payment. The basis for the withhold is to assure the Owner that there is something left of the construction fund to cover any incomplete or improperly performed work. Likewise, the General wants to have enough of the subcontractor's funds to cover any incomplete or deficient work. All very elementary and nothing special- but there are some issues that come up.

For example, in public works the Owner can only withhold up to 5% of the progress payment. The General on public works project can only hold retention in the amount that the Owner holds; if the Owner holds 5%, the General can only hold 5%.

There is an exception in the public works arena that allows the General to hold more than the Owner holds. If the General includes in its advertisements for subcontractor bids a requirement that the subcontractor must be able to bond their work, and provided the General includes the particulars of the bond that is required, then if that bond is not or cannot be provided, the General is permitted to withhold additional retention. This is justified as protection for the General in the event the subcontractor defaults. (PCC §§4108, 7200) If the bond is provided, then the amount of withheld retention cannot exceed the Owner's retention.

This is not the case on private works projects. A General is not limited to the amount that the Owner retains. The General can retain whatever it wants, provided of course that amount is identified in the contract. Remember, retention is a contract condition and if it is not included in the agreement,

then it cannot be withheld. If you want it, include it in the terms and conditions.

When must retention be released is the more interesting issue; when is it due and what happens if it is not paid out? Retention often represents a contractor's profit on a project and so obtaining those withheld funds as soon as possible is important. Under what circumstances can the Owner withhold retention, likewise when can the General withhold retention, and just what constitutes retention anyway?

Last issue first so we are clear. A retention payment is not a progress payment and the last progress payment is not necessarily a release of retention. The money released for retention must be the money withheld from the progress payments as retention. This is important because if retention is released to the General, then by Code the subcontractor's retention must be released within 7 days. In public works, the Owner has to release the retention within 60 days of issuing the notice of acceptance. Similarly, in private works, when the Owner releases retention to the General, the General has to release the retention within the statutory period.

Except, there is always an exception, if there is a *good faith dispute* between the parties that allows the continued withholding of the retention. What constitutes a *good faith dispute* sufficient to justify the withholding has been the subject of a number of appellate decisions. One that has generated a lot of problems and that is thankfully being ignored in more recent cases is the *Martin Brothers* case. In that case the court of appeal ruled that a good faith dispute justifying a withhold was change order work; ie- a new money claim.

According to the *Martin Brothers* court if a subcontractor submitted a claim, then that was sufficient to allow the General to withhold retention. In other words, the fact that the claim, if proved, would require the General to pay additional money, but if it not proved the General would pay nothing, had no significance. The sub's previously earned money could still be retained and, even more ridiculous, the dispute was determined to be in good faith and therefore the sub could not get its fees or penalties for wrongful withhold of its earned money.

Recent decisions are not applying the *Martin Brothers* ruling. In *United Riggers & Erectors v Coast Iron &*

Steel, the court ruled that if the dispute had nothing to do with the retention fund, a failure to release retention in the statutory time was wrongful. In *United Riggers, Coast* the subcontractor submitted a claim for delay costs and outstanding change orders. United withheld the retention based on those claims. The court ruled that because the dispute had nothing to do with retention there was no good faith basis for the withhold.

United Riggers is based on an earlier case- *East West Bank v Rio School Dist*- where the court ruled that the school district did not have a good faith basis to withhold retention. There the issues between the District and the General had to do with extra costs. The *East West Bank* case put the good faith dispute issue into its proper context and applied the statute in the way it was expected to be applied; and did not follow *Martin Brothers*.

In *Blois Const. v FCI/Fluor/Parsons* the court confronted a related issue. In that case the question was- *what* retention is due. In *Blois*, the Owner on a public contract initially withheld 5% retention and the General withheld that same amount from its subcontractors. The Owner eventually determined it

would not withhold any further retention and thereafter paid all progress payments with no retention withheld. The General paid out the full amount of all subcontractor progress payments from that point forward.

Blois, one of the subcontractors, insisted that it was due all of its previously held retention because the Owner was no longer holding retention. The court disagreed. Because the Owner had not released the previously withheld retention amounts to the General, there was no obligation to pay any retention to the subs, therefore, no wrongful withhold. The Code specifically states that when the General receives retention from the Owner, then and only then is it required to pay out retention; and that never happened.

Retention must be released within the statutory timeframes and when it is released, the General must pay it out to its subcontractors, unless there is a good faith dispute. The good faith dispute however must relate to the retention, not other ancillary issues. If the dispute is over change order work or something other than contract work not performed, and retention is not released, then it is a wrongful withhold and penalties can attach.

Bio: John P. McGill is an attorney representing contractors and suppliers throughout the Bay Area and Northern California in both private and public work disputes, employment, transactional, and administrative matters. He received his JD with distinction from the University of the Pacific, McGeorge School of Law, and is a member of the Traynor Honor Society. He is the author of [California Contractor's DESKTOP GENERAL COUNSEL What You Need To Know About California Construction Law.](#) Contact: Work - 925-952 5403 or Cell- 707-337-1932. johnmcgill310@gmail.com; jmcgill@archernorris.com





EDUCATION OPPORTUNITIES

Building Partnerships Through Customer Service

The Solano/Napa ECT is hosting a NECA Education Class where participants will learn:

- Effective steps to deliver better, faster service, while increasing customer satisfaction;
- Identify ways to increase credibility with customers;
- Describe how to manage customer expectations by personality style;
- Give examples of how to gain and maintain repeat business; and
- Explain how to minimize difficulty when dealing with difficult customers.

Date: Wednesday, July 20, 2016

Time: 8:30 AM - 4:30 PM

Location: Napa Training Center (720-A Technology Way, Napa, CA)

Cost: Free to contractors working in Local Union 180's jurisdiction.

All others: \$310 per person

Contact [Juanita Mitchell](#) at the Northern CA Chapter of NECA to register your attendance.

Cracking the 'WIP' - Driving Predictable Cost Projections

Many contractors struggle with how to build a robust cost projection process that provides for consistency and predictability; banks and bonding companies are demanding contractors develop and implement robust cost controls. Learn how to identify the key indicators that monitor project performance and allow you to drive responsibility to the project level, affecting the greatest positive change.

- Identify how to manage work-in-process for better profitability;
- Explain the relationship between project profitability and processes;
- Describe how to apply earned value reporting to projects;
- Describe key performance metrics that create actionable information;
- Discuss data collection and metric automation methods;
- Explain deployment options.

Senior executives, financial managers and project managers will benefit from this full-day course.

Date: Thursday, September 22, 2016

Time: 8:30 AM - 4:30 PM

Location: Napa Training Center (720-A Technology Way, Napa, CA)

Cost: Free to contractors working in Local 180's jurisdiction

All others: \$500 per person

Interested in registering? Contact Juanita Mitchell at the Northern CA Chapter for more details!

UPCOMING CLASSES OFFERED THROUGH THE JATC

CALCTP

California Advanced Lighting Controls Training Program (CALCTP) with Instructor Stephen Slovacek is looking for participants. This class is a total of 50 hours: 10 hours of lecture and 40 hours of lab. The class schedule will be coordinated with those in attendance. **YOU MUST BRING PROOF OF COMPLETING THE ONLINE COURSE TO THE FIRST CLASS OR EMAIL TO stacy@tricityjatc.org.**

Students will not be allowed to attend the class if they have not completed the online coursework. Go to bit.ly/IBEW234CALCTP to get started today. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.



CALCTP-AT

The JATC is also taking sign-ups for the California Advanced Lighting Controls Training Program-Acceptance Testing (CALCTP-AT) with Instructor Stephen Slovacek. This class is a total of 24 hours. The class schedule will be coordinated with those in attendance. The prerequisite for this class is completion of the 50 hour CALCTP. An application form must be completed prior to starting class. To register for this class there is a \$225 application/record maintenance fee. Go online to goo.gl/qkW7AI to complete an application and pay the application/record maintenance fee. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.



CPR/FIRST AID CLASS

Since First Aid/CPR language has been added to the Inside Agreement and will now be a requirement, the JATC has decided to offer it more regularly. The classes will now be offered monthly. Roni Jane Sudyka will be the trainer and the class is always well received. Blood borne pathogens will also be covered. The next class is scheduled for Saturday, June 4th beginning at 8:00 am, at the Training Center. Please call Stacy to sign up and to inquire about the additionally scheduled dates

CODEOLOGY CLASS

A codeology class, with instructor David Martinez is scheduled for July 12th and 28th from 5:30 to 8:30 pm, Drop on in for this series! Double check dates with Stay! This is a (3) hour class.

MOTORS CLASS

A motor class, with instructor David Martinez is scheduled for the third Tuesday of each month. The next class is July 19th from 5:30 to 8:30 pm, Drop on in for this series! This is a (3) hour class

OCAL PIPE CLASS

The JATC has also scheduled an OCAL Pipe class for Wednesday, July 20th from 5:30 pm to 7:30pm.

Those interested should contact Stacy to sign-up.

EVITP - CONDENSED

EVITP 3.0 Class Electric Vehicle Infrastructure Training Program (EVITP) 3.0 with Instructor Stephen Slovacek. This class is a condensed version of the 35 hour course. It is a prerequisite for EVITP that you are a California Certified General Electrician. As a bonus, there is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC. Call Stacy for more information.

CONGRATULATIONS TO THOSE WHO HAVE COMPLETED UPGRADE CLASSES

Congratulations to the following individuals who have recently completed classes offered through the apprenticeship program! We appreciate your commitment to the industry!

CPR/FIRST AID

- Lyle Abraham
- Abraham Adams, Jr.
- Filemon Medina
- Gal Michale
- Ricky Rodriguez
- Jim Shumaker

MOTORS

- Filemon Medina
- Jorje Germany
- Mark Hiura

- Gale Michalek
- Brian Stanley
- Chad Vargas
- Al Werner

JATC APPLICANT TEST SCHEDULED

The Tri-County Electrical JATC accepts applications on a year round basis. The next aptitude test has been scheduled for August 6, 2016. For more information regarding the process, please click in the following link:

[JATC INFORMATION](#)

CODEOLOGY

- Jorge Germany
- Hector Medina
- Agustin Guerrero
- Filemon Medina
- Corey Cardenas-Perron
- Julio Robles

FORKLIFT/GRADALL

- Israel Andrade
- Jeff Beers
- Michael Bradley
- Brad Conger
- Bryan Craddock
- Anthony Davis
- Daniel Fernandez
- Ivan Garcia
- Jorje Germany
- Michael Gruber
- Jaime Hernandez
- Steve Luiz
- Ernesto Magallan
- Kapena Magallan
- Stefan Marceron
- Filemon Medina,
- Jack Russo,
- Manuel Valdez
- Chad Vargas
- Al Werner

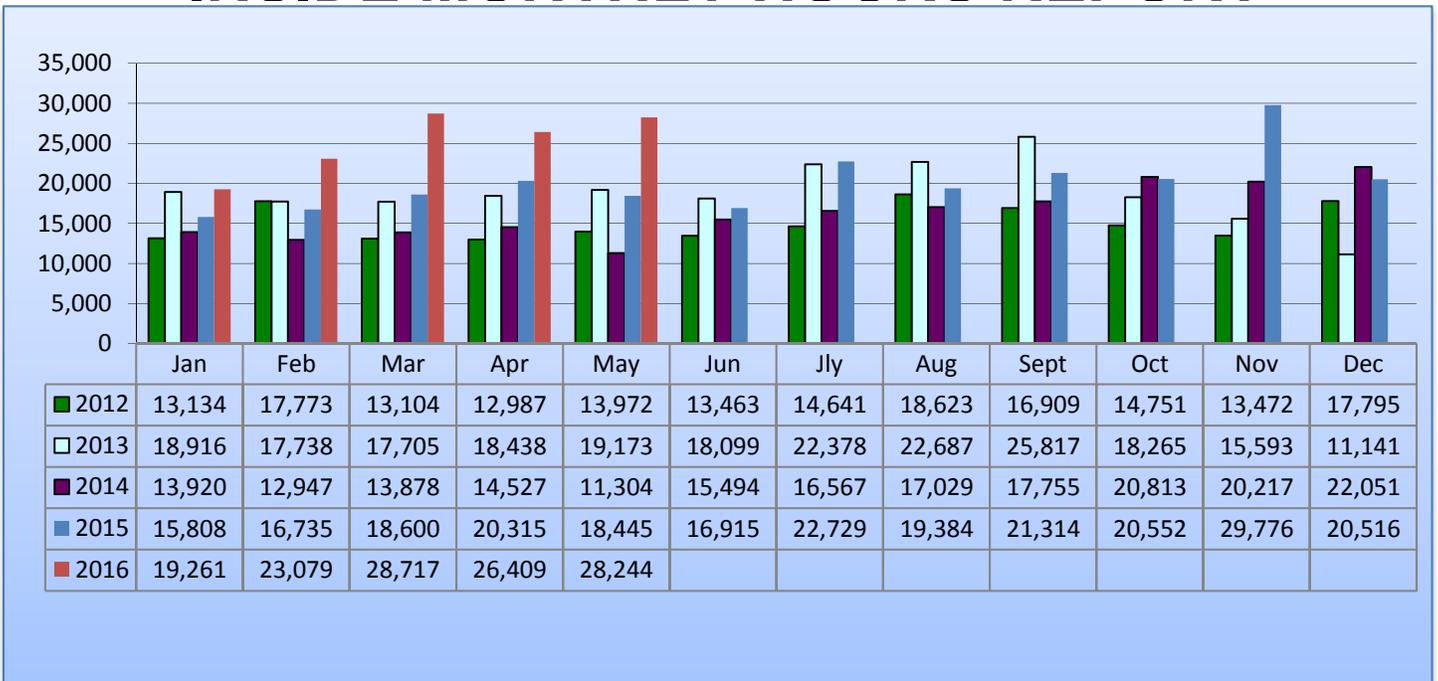
AVAILABILITY LIST UPDATE

On the Inside Out-of-Work List, there are 0 on Book 1, 22 on Book 2, 3 on Book 3 and 1 on Book 4. For Sound & Comm. There is 1 on Book 3. There are 23 CW's on Book 1 and 367 on Book 2. There are no Inside apprentices available for work at this time.

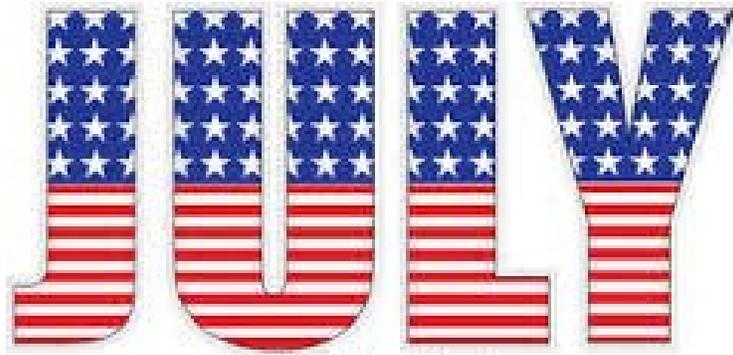
SCISSORS/BOOM LIFTS

- John Barber
- Jeff Beers
- Brad Conger
- Bryan Craddock
- Daniel Fernandez
- Ivan Garcia
- Jorje Germany
- Michael Gruber
- Steve Luiz
- Ernesto Magallan
- Kapena Magallan
- Filemon Medina

INSIDE MONTHLY HOURS REPORT



UPCOMING EVENTS CALENDAR



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July 4, 2016

Independence Day Holiday

July 30 – August 5, 2016

National Training Institute

Ann Arbor, MI

October 7-10, 2016

NECA Convention

Boston, MA

October 8, 2016

IBEW 234 Family BBQ

Toro Park – Buckeye Area

Salinas, CA

November 2-6, 2016

Executive Management Institute

Nashville, TN

December 2, 2016

Chapter Christmas Party

And did you know that July has these famous days too!

For more information about the background, click on each “holiday”

1 [Creative Ice Cream Flavors Day](#)

1 [International Joke Day](#)

2 [I Forgot Day](#)

2 [World UFO Day](#)

- 3 [Build A Scarecrow Day](#) - first Sunday in month
- 3 [Compliment Your Mirror Day](#)
- 3 [Disobedience Day](#)
- 3 [Stay out of the Sun Day](#)
- 4 [Independence Day \(U.S.\)](#)
- 4 [National Country Music Day](#)
- 4 [Sidewalk Egg Frying Day](#)- Hmmmm, I wonder why!?!
- 5 [Work-a-holics Day](#) - even though everyone is on holiday
- 6 [International Kissing Day](#)
- 6 [National Fried Chicken Day](#)
- 7 [Chocolate Day](#)
- 7 [National Strawberry Sundae Day](#)
- 8 [Video Games Day](#)
- 9 [National Sugar Cookie Day](#)
- 10 [Teddy Bear Picnic Day](#)
- 11 [Cheer up the Lonely Day](#)
- 11 [World Population Day](#)
- 12 [Different Colored Eyes Day](#)
- 12 [Pecan Pie Day](#)
- 13 [Barbershop Music Appreciation Day](#)
- 13 [Embrace Your Geekness Day](#)
- 13 [Fool's Paradise Day](#)
- 14 [Bastille Day](#)

- 14 [Pandemonium Day](#)
- 14 [National Nude Day](#)
- 15 [Tapioca Pudding Day](#)
- 15 [Cow Appreciation Day](#)- Go out and give a cow a hug
- 16 [Fresh Spinach Day](#)
- 17 [National Ice Cream Day](#) (third Sunday of the month)
- 17 [Peach Ice Cream Day](#)
- 17 [Yellow Pig Day](#)
- 18 [National Caviar Day](#)- something's fishy here
- 19 [National Raspberry Cake Day](#)
- 20 [National Lollipop Day](#)
- 20 [Moon Day](#)
- 20 [Ugly Truck Day](#)- it's a "guy" thing
- 21 [National Junk Food Day](#)
- 22 [Hammock Day](#)
- 22 [Ratcatcher's Day](#)
- 23 [National Hot Dog Day](#)
- 23 [Vanilla Ice Cream Day](#)
- 24 [Amelia Earhart Day](#)
- 24 [Cousins Day](#)
- 24 [Parent's Day](#) - fourth Sunday in July
- 25 [Culinarians Day](#)
- 25 [Threading the Needle Day](#)

26 [All or Nothing Day](#)

26 [Aunt and Uncle Day](#)

27 [Take Your Pants for a Walk Day](#)

28 [National Milk Chocolate Day](#)

29 [National Lasagna Day](#)

30 [National Cheesecake Day](#)

30 [Father-in-Law Day](#)

30 [International Day of Friendship](#)

31 [Mutt's Day](#)

31 [System Administrator Appreciation Day](#)