



June 11, 2014

Carolyn H. Connelly
Local Government Law Group PC
975 Oak Street, Suite 700
Eugene, OR 97401

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Health Education Center
Requested by: Local Government Law Group PC on behalf of Pacific Communities Health District

Dear Ms. Connelly:

On May 23, 2014, you submitted a request on behalf of Pacific Communities Health District asking if the Prevailing Wage Rate laws would apply to the proposed project to build a Health Education Center in Newport, Oregon. Sufficient information to make such a determination was received on June 5, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Pacific Communities Health District ("the District") is a public agency as defined in ORS 279C.800(5). The District owns, and has in the past, operated the Pacific Communities Hospital in Newport, Oregon.
2. In late 2001, the District determined it would be more efficient and better serve the public interest to enter into an affiliation with a larger hospital group. On December 13, 2001, the District entered into a Lease and Operating Agreement ("Lease") with Samaritan Pacific Health Services, Inc. and Samaritan Health Services, Inc. (referred to in this determination collectively as "Samaritan"), both private non-profit corporations. The leased premises include the Pacific Communities Hospital and certain surrounding property.
3. Under the terms of the Lease, Samaritan will operate the Pacific Communities Hospital; its outpatient medical clinics; medical office space; and its home health, hospice, and home medical services for a period of 30 years. During the Lease

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term, the District provides Samaritan with financial and other support in relation to the operation of the hospital.

4. The District and Samaritan have determined a need exists for a health education center. No existing structure is currently available to house such a center. However, the leased premises includes space where such a center may be constructed.
5. A Lease Addendum for a health education center has not been executed, but the District and Samaritan have informally agreed to the terms. In the Lease Addendum, the District grants Samaritan permission to construct and operate a Health Education Center (“proposed project”) as part of its leased hospital facility and operations.
6. The proposed project includes the construction of an approximately 10,000 square-foot structure to be located on the premises leased by Samaritan. The Lease Addendum states that if the project is pursued, Samaritan is solely responsible for soliciting and entering into project design and construction contracts. The District will not be a party to these contracts, and the Lease Addendum specifically states the District shall not be responsible for any supervision or inspection of the design or construction work.
7. The District will own the Health Education Center, but Samaritan will operate it for a period of at least five years. If Samaritan discontinues operation of the Health Education Center, all Samaritan’s leasehold interest in land and building improvements, and Samaritan’s interest in furnishings and equipment, fully revert to the District.
8. The proposed project cost is estimated to be \$2,514,054. The District will contribute up to \$1,000,000 toward the project costs.
9. The proposed project will not include the construction or installation of a device that uses solar radiation.

CONCLUSIONS OF LAW

1. The proposed project will not be carried on or contracted for by any public agency and is therefore not a “public works” under ORS 279C.800(6)(a)(A).
2. The proposed project is not privately owned construction and is therefore not a “public works” under ORS 279C.800(6)(a)(B) or (C).
3. The proposed project will not include the construction or installation of a device that uses solar radiation and is therefore not a “public works” under ORS 279C.800(6)(a)(D).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the proposed Health Education Center project.

This determination is based on the agency's file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

REQUEST FOR A RECONSIDERATION

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

RIGHT TO A HEARING

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, Oregon 97232

If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: June 11, 2014

Brad Avakian, Commissioner
Bureau of Labor and Industries



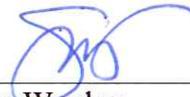
Gerhard Taeubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On June 11, 2014, I mailed the Prevailing Wage Rate Determination for the proposed Health Education Center project to the requestor and interested party, as follows:

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Chris Minor
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Susan Wooley
PWR Technical Assistance Coordinator
Wage and Hour Division
Bureau of Labor and Industries