



September 17, 2012

James C. Coffey
Stebbins & Coffey
P.O. Box 1006
745 California St.
North Bend, OR 97459

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Oregon International Port of Coos Bay – 2012 Charleston
Marina Dredging Project
Requested by: Oregon International Port of Coos Bay through their
attorneys Stebbins & Coffey

Dear Mr. Coffey:

On September 6, 2012 you submitted a request on behalf of Oregon International Port of Coos Bay asking if the Prevailing Wage Rate law would apply to the 2012 Charleston Marina Dredging Project (“project”). Sufficient information to make a determination was received on September 13, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Oregon International Port of Coos Bay (“Port”) owns and operates the Charleston Marina Complex and the Charleston Shipyard Complex, which are both located on the South Slough of Coos Bay. The Port is authorized by both the United States Army Corps of Engineers and the Oregon Department of State Lands to maintain certain minimum channel depths at both the Marina and Shipyard. The project involves dredging of areas located in the Port of Coos Bay at the Charleston Marina and Charleston Shipyard.

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2. The underwater areas of the marina and shipyard were originally dredged to their current authorized depths several decades ago. Periodically, sand and silt will infiltrate into the marina and shipyard waterways in a process known as “shoaling”. When shoaling occurs, the depth of the water will decrease. If shoaling persists, the waterway will eventually reach a point where vessels can no longer safely transit the waterways without the risk of running aground.
3. The Port estimates that the 2012 Charleston Marina Dredging project will involve the removal of approximately 18,000 cubic yards of dredged material. The dredged materials will be placed into an authorized in-water or upland disposal area.
4. The dredging will occur on lands under the waters of Coos Bay. All portions of Coos Bay, both the submerged and submersible lands, are owned by the State of Oregon.
5. The total 2012 Charleston Marina Dredging project cost is estimated to be between \$280,000 and \$430,000. All funds will be funds of a public agency provided by the Port.

CONCLUSIONS OF LAW:

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(A). The Marina Dredging project is a project for the reconstruction or major renovation of a road, highway or improvement and will be carried on and contracted for by Oregon International Port of Coos Bay, a public agency.
2. The estimated project cost will exceed \$50,000 so the exemption under ORS 279C.810(2) will not apply.

DETERMINATION:

The Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to the proposed construction, reconstruction, major renovation and/or painting of the Oregon International Port of Coos Bay – 2012 Charleston Marina Dredging 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 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, OR 97232

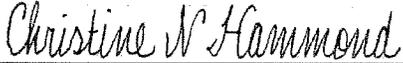
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: September 17, 2012

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

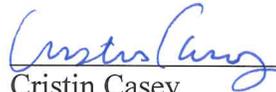

CHRISTINE N. HAMMOND,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On September 17, 2012, I mailed the Prevailing Wage Rate Determination for the Oregon International Port of Coos Bay – 2012 Charleston Marina Dredging project to the requestor, as follows:

James C. Coffey
Stebbins & Coffey
P.O. Box 1006
745 California Street
North Bend, OR 97459

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 6224


Cristin Casey
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries