



November 13, 2012

Charlie Warren, P.E.
Public Works Director
City of Troutdale
342 SW 4th Street
Troutdale, OR 97060-1322

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Imagination Station Project
Requested by: City of Troutdale

Dear Mr. Warren:

On November 8, 2012, you submitted a request on behalf of City of Troutdale asking if the Prevailing Wage Rate law would apply to the proposed Imagination Station project. Sufficient information to make a determination was received on November 8, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. The City of Troutdale has planned repair work on Imagination Station, a wooden play structure originally built in 1994. Imagination Station is located in Columbia Park at 1900 SW Cherry Park Road in Troutdale. The City of Troutdale is a public agency.
2. The repairs to Imagination Station are extensive and will include replacing wooden decking with composite decking material. On September 15, 2012, the City held a volunteer day with over 350 volunteers performing different projects on the play structure. Volunteers replaced portions of the decking, but it will need to be completed.
3. The City has hired Kenny's Fence and Construction to complete the decking. The City will provide the decking and materials and the contractor will perform the work.

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4. The City is also considering placing a new rock play feature adjacent to Imagination Station. Precision Recreation Contractors has given the City a price of \$44,976 for installation of the rock feature.
5. The total project is estimated to cost \$90,181.60. The City received a \$100,000 grant from METRO for the project. All funds used on the project will be funds of a public agency.
 - a. The re-decking portion of the project is estimated to cost \$44,105. This includes costs incurred on the City's volunteer day, all decking materials purchased to date and decking materials that need to be purchased, additional support supplies, permits and the contractor for labor with Kenny's Construction.
 - b. The rock project is estimated to cost a total of \$46,076.60. This includes the cost of the contract with Precision Recreation Contractors and permits.

CONCLUSIONS OF LAW:

1. The proposed project meets the definition of "public works" under ORS 279C.800(6)(a)(A) because the project is a project for the construction, reconstruction, major renovation and/or painting of a structure that will be carried on and contracted for by a public agency.
2. The re-decking and the proposed rock project would be considered one project for the purposes of compliance with the prevailing wage laws because ORS 279C.827 prohibits a public agency from dividing a public works project into more than one contract for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.
3. The total estimated project cost is \$90,181.60; therefore, the exemption for projects for which the contract price is less than \$50,000 would not apply.

DETERMINATION:

Based on the foregoing, 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 Imagination Station 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, 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: November 13, 2012

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

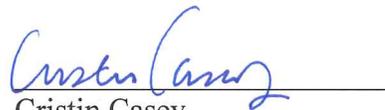
Christine N. Hammond
CHRISTINE N. HAMMOND,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On November 13, 2012, I mailed the Prevailing Wage Rate Determination for the Imagination Station Project to the requestor, as follows:

Charlie Warren, P.E.
Public Works Director
City of Troutdale
342 SW 4th Street
Troutdale, OR 97060-1322

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 5890



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