



August 7, 2015

John C. Fisher
Attorney at Law
767 Willamette Street, Suite 302
Eugene, OR 97401

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Installation of Replacement Solar Thermal Hot Water System, B878
Requested by: Solarc Engineering and Energy+Architectural Consulting

Dear Mr. Fisher:

On July 24, 2015, the Bureau of Labor and Industries received your request on behalf of Solarc Engineering and Energy+Architectural Consulting (“Solarc”) asking if the Prevailing Wage Rate laws would apply to the installation of a replacement solar thermal hot water system on the Health and Wellness Building at Lane Community College. Sufficient information to make a determination was received on July 24, 2015, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. The existing solar thermal system for the Health and Wellness Building at Lane Community College was damaged during a winter freeze event such that the entire replacement of the system is required to make the system functional. Solarc assumes warranty responsibility for this damage.
2. The System Warranty Services Agreement between Lane Community College and Solarc stipulates that Solarc will provide and pay for the professional services and provide and pay for the system construction costs in connection with installing a replacement solar thermal hot water system at the Health and Wellness Building. The work to replace the system will not use any funds of a public agency.

CONCLUSIONS OF LAW

1. The definition of “public works” under ORS 279C.800(6)(a)(D) includes the construction or installation of a device, structure or mechanism that uses solar radiation as a source for generating heat, cooling or electrical energy on a building owned by a public agency.

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Worksource Bend
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The solar thermal hot water system is a device, structure or mechanism that uses solar radiation as a source for generating heat, cooling or electrical energy, and the system will be (or has been) installed on a building owned by a public agency. Therefore, this meets the definition of "public works" under ORS 279C.800(6)(a)(D).

2. There is an exemption from the Prevailing Wage Rate laws under ORS 279C.810(2)(b) for projects that do not use funds of a public agency directly or indirectly. However, the definition of "public works" under ORS 279C.800(6)(a)(D) specifically states that the exemptions under ORS 279C.810(2)(b) do not apply to this definition (D) of "public works." Therefore, none of the exemptions from the Prevailing Wage Rate laws under ORS 279C.810(2) apply to the installation of a solar thermal hot water system.

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, apply to the installation of a replacement solar thermal hot water system on the Health and Wellness Building at Lane Community College.

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

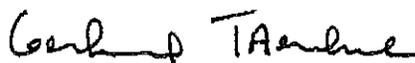
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 order 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.

Date: August 7, 2015

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On August 7, 2015, I mailed the Prevailing Wage Rate Determination for the installation of a replacement solar thermal hot water system on the Health and Wellness Building at Lane Community College to the requestor and interested parties, as follows:

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Todd Smith, Facilities Director
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Susan Wooley
PWR Technical Assistance Coordinator
Wage and Hour Division
Bureau of Labor and Industries