

November 15, 2010

Linda Baker, President
Friends of the Jefferson Public Library
PO Box 656
Jefferson, OR 97352

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Construction of New Jefferson Public Library
Requested by: Friends of the Jefferson Public Library

Dear Ms. Baker:

On October 15, 2010, we received your request on behalf of the City of Jefferson asking if Prevailing Wage Rate laws would apply to a proposed project to build a new public library. Sufficient information to make such a determination was received on November 4, 2010, and therefore, the Commissioner issues the following determination:

FINDINGS OF FACT

1. The City of Jefferson (the "City") owns certain real property in the town of Jefferson, Marion County, Oregon, on which the City desires a new public library to be constructed.
2. Friends of the Jefferson Library ("Friends"), a private non-profit entity, has proposed to build a new library on land owned by the City. The project to build the new library (the "Project") will be privately designed and managed, on behalf of Friends.
3. The City and Friends entered into a lease agreement ("Lease") on July 22, 2010, for the land constituting the proposed new library site. The City shall lease the premises to Friends for a term of five (5) years or until such earlier date that the Project is deemed completed by Friends and the City has issued a building occupancy permit.
4. If the project is not deemed completed during the term, the lease will automatically renew for an additional two (2) years.
5. The City shall continuously maintain at its expense, commercial general liability and property damage insurance with the combined single limit of not less than one million dollars (\$1,000,000). Insurance shall provide for, at a minimum, coverage for bodily injury, death or property damage in connection with any use or occupancy of the Premises.

6. According to the information provided from the City, the City has not entered into any contracts for the construction of the Project.
7. The total project cost is estimated to be \$800,000. Through fundraised capital exclusively, Friends will pay for the entire cost of the proposed library. No funds of a public agency will be used on the project, either directly or indirectly.

CONCLUSIONS OF LAW

1. The proposed project to build a new library on City of Jefferson property is a publicly-owned improvement that involves construction. Therefore, the project could be a “public works” under ORS 279C.800(6)(a)(A).
2. There is no evidence that the project will be carried on or contracted for by a public agency.
3. Regardless of whether the proposed project is a public works under ORS 279C.800(6)(a)(A), an exemption from the prevailing wage rate laws applies to “projects for which no funds of a public agency are directly or indirectly used.” ORS 279C.810(2)(b).

Note: In the event of damage to any property associated with the Project, if insurance proceeds that belong to the City are used to pay for construction, reconstruction, major renovation or painting, such proceeds would be considered funds of a public agency, whether the contractor obtains payment directly from the insurance company or the public agency. OAR 839-025-0004 (9)(a)(B)(iii)

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 project to build a new public library on City of Jefferson property. However, if funds of a public agency are directly or indirectly used on this proposed project, this determination may no longer apply to the 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

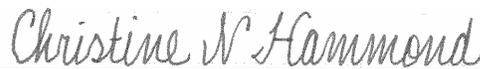
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: November 15, 2010

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 November 15, 2010, I mailed the Prevailing Wage Rate Determination for the proposed project to build a new public library on City of Jefferson property to the requestor, public agency and interested parties associated with this project, as follows:

Linda Baker, President
Friends of the Jefferson Public Library
PO Box 656
Jefferson, OR 97352

Sara Cook, City Recorder
City of Jefferson
PO BOX 83
Jefferson, OR 97352

Michael D. Myers, Mayor
City of Jefferson
PO BOX 83
Jefferson, OR 97352

Luis Martin del Campo
Compliance Specialist, PWR
Wage and Hour Division
Bureau of Labor and Industries