

March 31, 2009

Matt Stouder, Supervising Civil Engineer
City of Springfield
225 Fifth Street
Springfield, OR 97477

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Jackson Annexation
Requested by: City of Springfield

Dear Mr. Stouder:

On March 10, 2009, Ken Vogeney submitted a request on behalf of the City of Springfield (“City”), asking if the Prevailing Wage Rate law would apply to construction work done as part of a proposed annexation agreement (“Agreement”). Sufficient information to make a determination was received on March 31, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Daniel and Sharon Jackson (“Jackson”) own a parcel of land, proximate to the jurisdictional limits of the City of Springfield, located at 2778 19th Street in Springfield. Jackson plans to build a subdivision on the property and has applied to the City to annex this land. The City has determined the minimum level of key urban services is currently available to the property, with the exception of public sanitary sewer service, public stormwater management service, and street connectivity to adjoining property.
2. In the Agreement, the City agrees to grant approval to the subdivision and annex the land if Jackson constructs sanitary sewer service, public stormwater management service, and street improvements. If Jackson fails to construct these items, the City will not grant subdivision approval. The Agreement does not require construction to occur, so it is not a binding agreement for construction.
3. The City requires the sanitary sewer system to consist of a 15-inch line. This is a larger line than the development will require, and is requested so that the line will provide sewer services for other properties. Other than the standardized design requirements for all public utilities in Springfield, the City will not exercise control over the design plans. The City will not exercise control over the

selection of contractors or construction work schedules, nor will the City give direction to the contractors.

4. Jackson is solely responsible for the cost of all construction. However, the City will reimburse Jackson approximately \$75,000 for the oversized sanitary sewer system.

CONCLUSIONS OF LAW

1. The proposed improvements of a sanitary sewer system, public stormwater management service, and street improvements at 2778 19th Street in Springfield are intended to be publicly owned. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(A) is applicable for consideration for the proposed improvements.
2. The proposed improvements are not being carried on or contracted for by any public agency. Therefore, the project does not meet the definition of “public works” in ORS 279C.800(6)(a)(A).
3. Because the project does not meet the definition of “public works” under ORS 279C.800(6)(a)(A), it is irrelevant whether public funds are used on the project.

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 construction of the sanitary sewer system, stormwater management system, or street improvements associated with the Jackson Annexation.

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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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

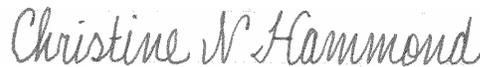
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: March 31, 2009

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 March 31, 2009, I mailed the Prevailing Wage Rate Determination for the Jackson

Annexation to the public agency associated with this project, as follows:

Matt Stouder, Supervising Civil Engineer
City of Springfield
225 Fifth Street
Springfield, OR 97477

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