The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety

ANGELO BUONOPANE
Director

ROBERT J. PREZIOSO
Deputy Director

October 29, 1997

Chris Higgins
J.C. Higgins Corporation
P.O. Box 683
Randolph, MA 02368

RE: HVAC Balancing/Attleboro Public Schools

Dear Mr. Higgins:

This letter is to memorialize our meeting of October 23rd and your subsequent correspondence also dated October 23rd concerning the prevailing wage law (M.G.L. c. 149, ss. 26 and 27) as it relates to the Oak Hill Project located in the City of Attloboro. At issue is whether the balancing work done following the installation of a new HVAC system is subject to prevailing wage rates as issued by this office. As I have previously stated, balancing work performed in conjunction with the installation of a new HVAC system is subject to the prevailing wage law.

M.G.L. c. 149, s. 26 requires that "mechanics and apprentices, teamsters, chauffeurs and laborers" employed in the "construction of public works" be paid prevailing wages. Additionally, M.G.L. c. 149, s. 27D defines the term "construction" broadly. It is undisputable that a contract for the installation of a new HVAC system necessarily involves final balancing work. Public awarding authorities contract for more than mere installation of items. Integral to any construction contract which is subject to the prevailing wage law, and in particular a contract involving installation of mechanical assemblies, is the expectation by the awarding authority that said items will be operational upon completion of work.

In regard to your question concerning the proper occupational classification of an "HVAC balancer", the classifications of "plumber/pipefitter" and "sheetmetal worker" typically cover balancing work. The exact nature of work that a particular employee performs will guide the applicability of the appropriate classification (i.e. use the closest and most harmonious title).

If you require additional clarification please feel free to call me.

Sincerely,

Stewart Field

Stewart Field, Program Manager
Mass. Div. of Occupational Safety

J. C.
HIGGINS
CORP.

MAILING ADDRESS: P. O. BOX 683, RANDOLPH, MA 02368

October 23, 1997

The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety
100 Cambridge Street, 11th Floor
Boston, MA 02202-0003

Attn: Mr. Stewart Field
Program Director

Re: Attleboro Schools - Oak Hill Site
Prevailing Wage Assignment - Balancer

Dear Mr. Field:

Thank you for taking the time to meet with myself and Jeff Searle of Searle and Associates this morning regarding the determination of the prevailing wage requirements for the referenced project. As we discussed, this correspondence will confirm your determination that all of the work performed to balance the HVAC systems on the referenced project is to be classified as that of the pipefitter's trade, and all personnel so engaged in balancing shall be paid at the prevailing wage of the pipefitter (ie $30.00, including benefits) as posted in the contract documents for the referenced project.

I trust that the above accurately confirms our conversation.

Very truly yours,

Chris Higgins /jp

Chris Higgins
CH/jp
attoak1.023

cc R.Ledoux/JCH
J. Searle/Searle and Associates
B. Nimms/N. B. Kenny (via fax 508-842-5973)
D. DePardo/City of Attleboro
J. Chelauski/R. W. Granger

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