

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)	
)	
AC PAVEMENT STRIPING COMPANY)	
MARKING SPECIALIST CORPORATION)	
MAINTENANCE COATINGS COMPANIES)	
)	
PETITIONER(S),)	STATE FILE NO. 2021-H-RP08-2331
)	
v.)	DATE OF NOTICE: September 11, 2020
)	
MICHAEL D. KLEINIK, DIRECTOR OF THE)	CERT. MAIL/RETURN RECEIPT:
ILLINOIS DEPARTMENT OF LABOR, and)	
THE ILLINOIS DEPARTMENT OF LABOR,)	N/A
)	
RESPONDENTS.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that Michael D. Kleinik, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from **AC PAVEMENT STRIPING COMPANY /MARKING SPECIALIST CORPORATION, AND MAINTENANCE COATINGS COMPANIES** [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: September 22, 2020
TIME: 4:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

MICHAEL HAGGERTY
ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

A handwritten signature in black ink, appearing to read "Michael D. Kleinik", is written over a horizontal line.

Michael D. Kleinik
Director of Labor



Jeffrey A. Risch
Direct Dial: (630) 569-0079
Email: jrisch@salawus.com

RECEIVED

AUG 14 2020

IDOL - Chicago Office

Via Hand Delivery to Chicago Office
Electronic Mail to michael.kleinik@illinois.gov, and
Facsimile (217) 782-0596

August 14, 2020

Michael D. Kleinik
Director
Illinois Department of Labor
160 N. LaSalle – 13th Floor
Chicago, IL 60601

RE: AC Pavement Striping Company's, Marking Specialists Corporation's and Maintenance Coatings Companies' 820 ILCS 130/9 Objections to the Illinois Department of Labor's July 15, 2020 Prevailing Wage Schedule and Demand for Section 9 Hearing

Dear Director Kleinik:

Our firm represents AC Pavement Striping Company (an Illinois Corporation), Marking Specialists Corporation (an Illinois Corporation) and Maintenance Coatings Companies (an Illinois Corporation) (hereinafter, individually and collectively referred to as the "Petitioner(s))." This letter constitutes the Petitioners' written notice of their objections to the Illinois Department of Labor's July 15, 2020 Prevailing Wage Schedule and determinations made thereto with respect to the classification of Traffic Safety Worker. This notice is submitted and filed pursuant to 820 ILCS §§ 130/4 and 130/9.

These Illinois based businesses are members of the Traffic Safety Collective Bargaining Association ("Association"). The Association represents various contractors that perform traffic safety work on public works projects in Illinois north of I-80; specifically including the entire counties of Cook, DuPage, Kane, Lake, McHenry and Will. The Petitioners regularly transact business and perform traffic safety work on public works projects in these counties. The Association is party to a collective bargaining agreement (hereinafter referred to as the "CBA") with a coalition of Teamsters Local Unions (Local Nos. 179, 301, 330, 673 and 731, hereinafter referred to as the "Local Unions"). Each Petitioner is signatory to the CBA. The underlying CBA helps establish the prevailing rate of wages and benefits for workers who perform traffic safety work on public works in the counties of Cook, DuPage, Kane, Lake, McHenry and Will.



As it historically has done, the Department recognized the classification of Traffic Safety Worker in Cook, DuPage, Kane, Lake, McHenry and Will counties in its July 15, 2020 Prevailing Wage Schedule and determinations because the majority of workers performing this work have historically been covered by collective bargaining agreements with the Union Locals and Association identified above. In particular, a majority of these workers have been directly employed by members of the Association, including, but not limited to, the Petitioners. As such, these agreements have historically set the classification for Traffic Safety Worker and/or the prevailing rate for the classification of Traffic Safety Worker in Cook, DuPage, Kane, Lake, McHenry and Will counties, as is the case with the current CBA.

The Traffic Safety Worker employed by the employer-members of the Association, and particularly the Petitioners herein, perform *work associated with barricades, horses and drums used to reduce lane usage on highway work, the installation and removal of temporary, non temporary or permanent lane, pavement or roadway markings, and the installation and removal of temporary road signs*. This worker has predominately performed this work in the counties of Cook, DuPage, Kane, Lake, McHenry and Will under and pursuant to the prevailing area-wide collective bargaining agreement for said work (the CBA).

Pursuant to 820 ILCS § 130/4, [t]he prevailing rate of wages paid to individuals covered under this Act shall not be less than the rate that prevails for work of a similar character on public works in the locality in which the work is performed *under collective bargaining agreements or understandings between employers or employer associations and bona fide labor organizations relating to each craft or type of worker or mechanic needed to execute the contract or perform such work, and collective bargaining agreements or understandings successor thereto, provided that said employers or members of said employer associations employ at least 30% of the laborers, workers, or mechanics in the same trade or occupation in the locality where the work is being performed*.

The Petitioners assert that they, and the other employers of the Association they each belong to, are covered by the prevailing area-wide CBA for Traffic Safety Worker, and that they employ workers under the CBA that encompasses no less than 30% of the workers performing the work of Traffic Safety Worker in the counties of Cook, DuPage, Kane, Lake, McHenry and Will. However, the Department's July 15, 2020 Prevailing Wage Schedule for each of the aforementioned counties are less than the wages and fringe benefits allocated and required by the CBA.

The prevailing wage rates, as required by the CBA, should be as follows (as they were previously and properly established by the Department from at least July 15, 2019 through July 14, 2020):

- \$37.75 – Base Hourly Rate;
- \$39.35 – Foreman Hourly Rate;
- \$9.30 – Health/Welfare Hourly Fringe Benefit Contribution;
- \$9.87 – Pension/Retirement Hourly Fringe Benefit Contribution; and
- \$0.30 – Training Hourly Fringe Benefit Contribution.

*Director M. Kleinik
August 14, 2020
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However, the Department published prevailing wage rates for the classification of Traffic Safety Worker for the counties of Cook, DuPage, Kane, Lake, McHenry and Will that are lower than the prevailing wage rates as established by the CBA (the dominant area wide collective bargaining agreement for Traffic Safety Worker).

Thank you for your attention to this matter. Please contact me if you have questions and to schedule a date for the Section 9 Administrative Hearing.

Sincerely,
SmithAmundsen LLC



Jeffrey A. Risch

STATE OF ILLINOIS)
)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I **Blanca Hinojosa**, a non-attorney, affirm, certify or on oath state, that I served notice of the attached **HEARING NOTICE** upon all parties to this case, or their agents appointed to receive service of process. Enclosed is a copy of the **HEARING NOTICE** in Case No. **2021-H-RP08-2331** and this Certificate of Service to each party or party's agent at the respective address and/or email shown on Certificate of Service to be served on **September 11, 2020** prior to 4:30 p.m.

/s/ Blanca Hinojosa
Office Associate, SS II
Illinois Department of Labor

JEFFREY A. RISCH
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