



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
PO Box 44540 • Olympia, Washington 98504-4540
360/902-5335 Fax 360/902-5300

July 14, 2008

Barnaby Peters, General Manager of Construction
Elcon Corporation
1720 75th Street SW
Everett, WA 98203

RE: Applicability of Inside Electricians 10% Tunnel Differential to the Sound Transit Beacon Hill Light Rail Tunnel Project

Dear Mr. Barnaby:

This letter is to respond to your request for a determination on the applicable prevailing rate of wage for Inside Electricians working in the tunnels on the above-referenced public works project. Your question specifically asks for a delineation of when the tunnel pay differential no longer applies to the work within the tunnels.

In order to fully understand this project I met with you, representatives of: IBEW local 46, the Seattle/King County Building and Construction Trades Council, Sound Transit, and Obayashi Corporation. Two site visits to the Beacon Hill Project were made with tours of the tunnels and station each time. Construction workers still brass in and out. Construction was still on-going in the tunnels and station, including shotcrete work, other cement work, as well as work on the rails. One tunnel had the rails installed and workers were measuring and adjusting their tolerances, the other was not yet at the point of installing the rails.

As you know, the prevailing wages for Inside Electricians working in Clallam, Jefferson, King, and Kitsap counties establishes a separate wage rate for Inside Electrician working in a tunnel. This separate wage rate is established because the union wage rate prevailed when establishing the prevailing wage rate for the majority of Inside Electricians in King County (as well as other counties stated above). The tunnel rate as reflected in IBEW Local 46's Collective Bargaining Agreement (CBA) and is recognized as the prevailing rate.

Language in the CBA Section 3.33 Tunnel Construction states: (a) All workers employed under the terms and conditions of this Agreement working on **new tunnel construction and working in the tunnel** shall be paid the regular hourly wage plus ten percent (10%) for such work (emphasis added). However, this shall not apply to tunnels constructed by the open cut method.

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Since the wage rate in question is one based on IBEW Local 46's CBA, we look to that agreement for the correct application of the Electrician's Tunnel wage rate. As stated above, that language in the agreement is specific to "new tunnel construction." Therefore, the tunnel rate established for Inside Electricians in the counties identified above will apply to work performed in a new tunnel.

Several possible end points for new construction were considered. These included but were not limited to: the completion of the TBM's boring operations, the completion of the tunnel lining (including or excluding the station area), the end of brassing in and out, most work complete and successful operation of train(s) that will ultimately make use of the tunnels, acceptance of the project by the awarding agency, and first passenger service through the tunnel.

The bright line at which the prevailing rate of pay for the new tunnel construction stops and is no longer required is directly linked to the tunnel no longer being new and under construction. "New" can be defined as freshly made and unused. The Sound Transit Beacon Hill tunnels will be used once (1) most work is complete and there has been successful operation of train(s) that will ultimately make use of the tunnel through both tunnels or, (2) final acceptance of the project by the contract awarding agency (Sound Transit) has occurred; whichever event happens first. Either of those criteria will be sufficient to end the requirement for tunnel pay for work within the (now used) tunnels.

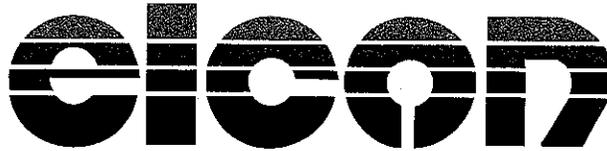
The department appreciates all of the information provided as well as the time and effort invested by everyone involved.

I hope this letter serves to address your request. If you have any questions or need further clarification, feel free to contact my office at 360-902-5330.

Sincerely,

David J. Soma
Industrial Statistician
Prevailing Wage Program Manger

cc: Obayashi Corporation
IBEW Local Union No. 46



ELCON CORPORATION

David Soma
Prevailing wage Program Manager
Department of Labor and Industries
PO Box 44540
Olympia, WA 98504-4540

April 22, 2008

Ph: 360-902-5311 Fax: 360-902-5300

RE: The application of the tunnel pay premium after the tunnel is constructed on the Beacon Hill Project.

Dear David,

Following up regarding our meeting on 3/31/08 and our subsequent phone conversation, please accept this letter as a formal request for your opinion regarding the application of the 10% premium for work performed in a tunnel after the tunnel construction is complete.

Section 3.33 of the union agreement is phrased consistent with the prevailing wage requirements. " All workers employed under the terms and conditions of this agreement working on NEW TUNNEL CONSTRUCTION and working in the tunnel shall be paid the regular hourly wage plus ten percent (10%) for such work."

The question is: If the tunnel is constructed and the final concrete walls are in place, the area is as safe as it will be when open to the general public, is it still considered NEW TUNNEL CONSTRUCTION and still under the requirement of the 10% premium?

We recognize you have already become familiar with this project based on your previous opinion written April 20, 2006. Elcon appreciates your timely efforts and thanks you in advance for your opinion to this matter.

Sincerely

A handwritten signature in black ink, appearing to read "Barnaby Peters", is written over a horizontal line.

Barnaby Peters

Elcon Corporation
General Manager of Construction

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