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August 8, 2013

memorandum

To

Christine di Iorio

From

Karen Tiedemann

RE

AMCAL Project Prevailing Wages

You have asked for an explanation of the applicability of prevailing wages to the AMCAL Project and in particular whether AMCAL could use residential prevailing wage rates for the project.

All first generation construction projects on the former Fort Ord are subject to the payment of prevailing wages. The FORA Master Resolution at Section 3.03.090 provides that “not less than the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, will be paid to all workers employed on the First Generation Construction performed on parcels subject to the Fort Ord Base Reuse Plan.” Section 7.6 of the AMCAL DDA entered into between the City of Marina and AMCAL requires that AMCAL comply with these requirements and pay prevailing wages in accordance with the Master Resolution on the construction of the project.

The FORA Master Resolution refers to the California Labor Code for the determination of the appropriate prevailing wages. Under the provisions of the Labor Code, the Department of Industrial Relations sets the prevailing wages for the various construction trades. The California Code of Regulations sets forth the requirement for the payment of prevailing wages and at Section 16001(d) provides that residential projects consisting of single family homes or apartments of no more than 4 stories are subject to the payment of prevailing wages, but that such projects may require a special wage determination which can be requested by the public agency from the Department. These prevailing wage rates are commonly referred to residential wage rates and may differ from the prevailing wage rate determinations issued by the DIR for non-residential projects, however, these rates are still prevailing wages and are in compliance with the requirements of the Labor Code. Based on the fact that the

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AMCAL project is not more than four stories and consists of apartments, a request for residential wage rates can be made to the DIR for the project and such a request would still be in compliance with the Master Resolution since the wages paid would be in compliance with the California Labor Code and nothing in the Master Resolution prohibits the use of residential wage rates. It should be noted that there are only a limited number of trades that would be covered by the residential wage rates. A review of the residential wage rates currently available from the Department shows that only two classes of trades are covered, residential carpenters and plumbers. If a residential wage rate determination request is made, most likely only these two trades would differ from the other prevailing wages established for Monterey County.