

## **Exhibit "A"**

### **1. North West Recreation Center Expansion and Improvements**

(Complaint received 04/30/2012, contract closed on 11/18/2011)

**Initial Determination: Based on a review of the City records, written and oral evidence presented, the evidence does not support an initial determination of the existence of good cause that the alleged wage violations occurred or that wages are owed to the following workers:**

Pedro Mancera	Javier Cruz
Adulfo Jimenez	Jose Luis Cruz
Adelaido Cruz	Edgar Martinez
Gerardo Cruz	

- a. Prime Contractor: Fazzone Construction Co.
- b. Subcontractor: Phoenix Mechanical Corporation
- c. Allegation: The complaint received after contract closeout alleges that seven individuals were employed on this project by Phoenix Mechanical, and were paid below the prevailing wage for performing Sheet Metal work. Additionally, a subset of the seven individuals was allegedly not paid for additional work hours that were not identified on the payroll.
- d. Findings: The certified payroll indicates that all employees in the complaint were classified as HVAC Mechanics and were paid the proper prevailing wage for that classification. One employee (Pedro Mancera) received back wages during a previous wage audit for performing Sheet Metal work at less than the prevailing wage for a short period of time. No evidence was found or provided that substantiated the claims that these employees performed Sheet Metal work on the project or did not receive payment for additional hours worked that did not appear on the payroll.

### **2. Dittmar Gym Enclosure Rebid**

(Complaint received 04/30/2012, contract closed on 7/14/2011)

**Initial Determination: Based on a review of the City records, written and oral testimony presented, good cause does exist to make the initial determination that two workers are owed back wages in the amounts as follows:**

Adelaido Cruz \$205.12  
Teodoro G. Cruz \$1.94

**Based on a review of the City records, written and oral testimony presented the evidence does not support an initial determination of the existence of good cause that the alleged wage violations occurred or that wages are owed to the following workers:**

Edgar Martinez	Gerardo Cruz
Pedro Mancera	Adulfo Jimenez
Jose Luis Cruz	Javier Cruz

- a. Prime Contractor: Barecky Construction Co.
- b. Subcontractor: Phoenix Mechanical Corporation (Out of business)
- c. Allegation: The complaint received after contract closeout alleges that eight individuals were employed on this project by Phoenix Mechanical, and were paid below the prevailing wage for performing Sheet Metal work and/or were not paid for additional hours worked that were not identified on the payroll.
- d. Findings: As described above, one individual was paid below the prevailing wage for some declared Sheet Metal work on the certified payroll, and is entitled to back wages of \$205.12. He was classified as an HVAC Mechanic for the remainder of his time on the payroll and was paid the proper wages for that classification. Another individual was underpaid for some declared Sheet Metal work on the certified payroll and is entitled to back wages of \$1.94. Again, the remainder of his time on the payroll he was classified as an HVAC Mechanic and paid the proper wages. Besides these two cases, no evidence was found or provided that substantiated the remaining claims that these employees performed Sheet Metal work on the project, or did not receive payment for additional hours worked that did not appear on the payroll.

### 3. Austin Resource Center for the Homeless (ARCH) Shower Renovations

(Complaint was received on 8/1/2012)

**Initial Determination: Based on a review of the City records, written and oral testimony presented, good cause does exist to make the initial determination that two workers are owed back wages in the amounts as follows:**

Valentin Hernandez \$849.60

Saul Ramos \$849.60

**Based on a review of the City records, written and oral testimony presented the evidence does not support an initial determination of the existence of good cause that the alleged wage violations occurred or that wages are owed to the following:**

Alfonso Equia Vazquez

Abel Martinez

Fernando Equia

Luis Laureles Bahena

Antonio Gaspar

- a. Prime Contractor: Kellogg, Brown and Root (KBR)
- b. Subcontractor: Bomax Contractors LLC
- c. Allegation: The complaint received after contract close out alleges that seven individuals were employed on this project by Bomax and were paid below the prevailing wage for performing Carpentry work.
- d. Findings: Only two of these employees are listed on the certified payroll provided to the City. Both were paid \$26 per hour which is above the prevailing wage for Carpenters on this project. However, receipts of pay stubs for these two employees indicate they were paid at a rate of \$15 per hour. Therefore, they are each entitled to back wages of \$849.60 for the two weeks they worked on the project. Due to the discrepancies discovered in the payroll, staff has expanding their audit to request pay stubs for all weeks that Bomax performed subcontractor work on the project.

**4. African American Cultural & Heritage Facility**

(Complaint received 8/1/2012)

**Initial Determination: Based on a review of the City records, written and oral testimony presented, good cause does exist to make the initial determination that two workers are owed back wages in the amounts as follows:**

Fernando Equia \$312.00  
Dagoberto Sanguario \$568.48

**Based on a review of the City records, written and oral testimony presented the evidence does not support an initial determination of the existence of good cause that the alleged wage violations occurred or that wages are owed to the following:**

Luis Laurels Bahena	Valentin Hernandez
Miguel Laurels Bahena	Abel Martinez
Alfonso Eguia	Vazquez Oscar Rodriguez
Antonio Gaspar Gaspar	Tejeda (Gaspar T. Martinez)

- a. Prime Contractor: Barecky Construction Company
- b. Subcontractor: Bomax Contractors LLC
- c. Allegation: The complaint received alleges that nine individuals were employed on this project by Bomax and were paid below the prevailing wage for performing Carpentry work.
- d. Findings: Payments were not made on a weekly basis. Certified payrolls did not include the gross amount earned for all jobs worked for the week. The complainant provided information on payments for employees that were not reflected on the submitted certified payroll for that week. The information on payments submitted included payments to construction companies instead of an employee. Further, evidence of payment was not submitted for all employees and/or pay periods. Based on the documentation submitted, one of the individuals named in the allegation is owed back wages in the amount of \$312.00 for performing carpentry work. Additionally, during our review, the submitted documentation reflects that a separate employee (not one of the nine complainants), who was classified as a Carpenter, is owed back wages in the amount of \$568.48.

**5. Austin Convention Center**

(Complaint received 8/1/2012)

- a. Prime Contractor: Kellogg Brown & Root Services, Inc.
- b. Subcontractor: Bomax Contractors LLC
- c. Allegation: The complaint received alleges that two individuals were employed on this project by Bomax and were paid below the prevailing wage for performing Carpentry work.

Valentin Esclaera Hernandez \$811.50  
Alfonso Equia \$450.72

- d. Findings: Using the TCPN Cooperative, the contract issued did not specify the prevailing wage requirements, and specifically excluded Davis Bacon wage rates. The agreement describes the work completed at the Convention Center as renovation of the concessions area in the north hall.
- e. Section 2258.023 of the Government Code provides that a contractor or subcontractor does not violate state law if the rates are not specified in the contract. Further, the State Statute does not apply to maintenance work. Because the Statute is not applicable, no initial determination is required.