

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



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FACSIMILE MESSAGE
January 23, 2007

TO:	PHONE:	FAX:
Mr. James Rilly, President Angotti & Rilly, Inc.	415-575-1470	415-575-3700
Sheryl Bregman, Deputy City Attorney, Construction Team, San Francisco City Attorney's Office Counsel to OLSE/Port of San Francisco	415-554-4226	415-255-0733
Donna Levitt, Manager Office of Labor Standards Enforcement (OLSE)	415-554-6239	415-554-6291
Timothy Y. Leung, Port of the City and County of San Francisco	415-274-0566	415-732-0566
FROM:	PHONE:	FAX:
Hearing Officer Dinah Verby c/o Marie Corlett Blits, Deputy City Attorney, Government Team, Counsel to the Hearing Officer	415-554-4651	415-554-4747

MESSAGE

RE: Hearing Officer's Order of Dismissal in the Matter of Appeal of Contractor Angotti & Rilly, Inc., from a Determination by the City and County of San Francisco Office of Labor Standards Enforcement and the Port of San Francisco Regarding Contract No. 2698, "Ferry Terminal Security Enhancement."

Please see the attached Order from Hearing Officer Verby. Thank you.

NOTE: All filings and other communications for the Hearing Officer outside the actual Hearing time shall be made to the Hearing Officer's Assistant/Executive Secretary Debbie Toy or Pauline Silva-Re, telephone 415-554-7500, fax 415-554-7466, e-mail debbie.toy@sfgov.org, pauline.silva-re@sfgov.org, Office of the Controller, City Hall Room 316, 1 Dr. Carlton B Goodlett Place, San Francisco, CA 94102 You may contact Ms. Toy or Ms. Silva-Re with any questions.

We are transmitting a total of 13 pages, including this cover sheet. If you did not receive all of the pages or there is another problem, please call Debbie Toy or Pauline Silva-Re at 415-554-7500.

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**HEARING OFFICER ADMINISTRATIVE HEARING
OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO**

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IN THE MATTER OF:

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF LABOR STANDARDS
ENFORCEMENT AND PORT OF SAN
FRANCISCO,

AND

ANGOTTI & REILLY, INC.

CONTRACT NO. 2698
Ferry Terminal Security
Enhancement Project

DISMISSAL

HEARING: DECEMBER 7, 2006

RECORD CLOSED: DECEMBER 22, 2006

INTRODUCTION

This matter concerns a request for administrative hearing by Angotti & Reilly, Inc. ("Angotti"), a City public works contractor, to contest a determination by the San Francisco Office of Labor Standards Enforcement ("OLSE") that penalties are owed for non-compliance with the City's prevailing wage laws

On September 11, 2006, OLSE issued a Certification of Forfeiture, in which OLSE determined that Angotti owed a total of \$22,059.88 in back wages and penalties based on alleged violations of San Francisco Administrative Code Section 6.22E by Angotti's subcontractor, Steel Fabricators and Detailers ("Steel Fab"), while working for the Port of San Francisco. By letter dated September 14, 2006, OLSE and the Port advised Angotti that this sum would be assessed against the balance of the contract payments due under the contract, unless Angotti or Steel Fab submitted a request for hearing to the City Controller within 15 days of the date of the letter. On October 5, 2006, Angotti faxed a letter to OLSE stating its intent to appeal the determination. By fax dated October 6, 2006, OLSE advised Angotti that the request for hearing should be directed to the Controller's office. On October 6, 2006, Angotti submitted a request for hearing to the Controller.

1 OLSE and the Port object to the request for hearing and assert that it is untimely because
2 it was submitted after expiration of the 15-day time limit, as a result of which the forfeiture is
3 deemed final pursuant to Administrative Code Section 6.22(E)(8)(c). Angotti contends that its
4 request for hearing is timely.

5 On November 9, 2006, the Controller appointed the undersigned Hearing Officer to hear
6 this matter. On November 13, 2006, the Hearing Officer issued a Notice of Hearing scheduled for
7 December 7, 2006, solely on the issue of the timeliness of the request for hearing. OLSE/Port
8 were directed to submit a letter brief detailing their position on or before November 15, 2006 and
9 Angotti was ordered to submit a responsive letter brief on or before November 20, 2006. (Hearing
10 Officer Exhibit 5) OLSE/Port's letter brief was timely received by the Hearing Officer's secretary
11 on November 15, 2006. (Hearing Officer Exhibit 1) On November 16, 2006, Angotti submitted a
12 letter to the Hearing Officer stating that as of 11:40 a.m. that day, it had not received the
13 OLSE/Port's brief. Angotti requested that the Hearing Officer cancel the hearing on timeliness
14 and instead schedule a hearing on the merits of the appeal (Hearing Officer Exhibit 3) Angotti did
15 subsequently receive a copy of OLSE/Port's brief on November 16, 2006

17 On November 17, 2006, the Hearing Officer issued an order denying Angotti's request to
18 cancel the hearing on timeliness. Based on the late service of the OLSE/Port's brief, the Hearing
19 Officer extended Angotti's time for filing a responsive brief until November 27, 2006. (Hearing
20 Officer Exhibit 4) Angotti's brief was timely submitted on November 27, 2006. (Hearing Officer
21 Exhibit 2)

22 A public hearing was held in Room 416 of City Hall on December 7, 2006, solely on the
23 issue of the timeliness of Angotti's request for hearing. Deputy City Attorney Sheryl L. Bregman
24 represented OLSE and the Port. Jim Reilly, President of Angotti & Reilly, appeared without an
25 attorney to represent Angotti. At the hearing, the parties had full opportunity to present relevant
26 evidence and argument. OLSE/Port presented one witness, Mary Marzotto, who testified under
27 oath. Hearing Officer Exhibits 1 through 5 were entered into the record

1 The record was held open until December 15, 2006 for the parties' submission of post-
2 hearing letter briefs on a single issue specified by the Hearing Officer: whether the 15-day time
3 limit for requesting a hearing is mandatory and jurisdictional, or merely directory. The parties were
4 given until December 22, 2006 to submit responsive letter briefs. All post-hearing submissions
5 were timely received, and the record closed on December 22, 2006

6 SUMMARY OF EVIDENCE

7 1. Pursuant to San Francisco Administrative Code Section 6.22(E), all contractors and
8 subcontractors performing a public work or improvement for the City and County of San
9 Francisco shall pay their workers on such projects the prevailing rate of wages, as determined
10 each year by the Board of Supervisors. Section 6 22(E)(8) provides, in pertinent part

11 (8) Non-compliance with Wage Provisions--Penalties.

12 (a) Penalty and Forfeiture. Any contractor or subcontractor who shall fail or neglect
13 to pay to the several persons who shall perform labor under any contract, subcontract or
14 other arrangement on any public work or improvement as defined in this Chapter the
15 highest general prevailing rate of wages as fixed by the Board of Supervisors under
16 authority of this Chapter, shall forfeit; and, in the case of any subcontractor so failing or
17 neglecting to pay said wage, the original contractor and the subcontractor shall jointly and
18 severally forfeit to the City and County of San Francisco back wages due plus the penal
sum of \$50 per day for each laborer, workman or mechanic employed for each calendar
day or portion thereof, while they shall be so employed and not paid said highest general
prevailing rate of wages, and in addition shall be subject to the penalties set forth in Article
V of this Chapter, including debarment.

19 (b) Enforcement. *[portion of text omitted]*. . . Certification of forfeitures under this
20 subsection shall be made only upon an investigation by the responsible department head
21 or the Labor Standards Enforcement Officer and upon written notice to the contractor
22 identifying the grounds for the forfeiture or forfeitures. The Controller, in issuing any
warrant for any such payment, shall deduct from the amount which would otherwise be
due on said payment or payments the amount of said forfeiture or forfeitures as so
certified.

23 (c) Recourse Procedure. If the contractor or subcontractor disagrees with the
24 forfeiture as so provided in the foregoing subparagraph (b), then the following procedure
applies:

25 (i) The contractor or subcontractor may request a hearing in writing within
26 15 days of the date of the notification of the forfeiture. The request shall be directed to the
27 City Controller. Failure by the contractor or subcontractor to submit a timely, written
28 request for a hearing shall constitute concession to the assessment and the forfeiture
shall be deemed final upon execution of the 15-day period; . . .

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2 2. At issue in this case is whether Angotti's request for hearing was timely submitted. The
3 material facts are not in dispute. Angotti served as the prime contractor under Contract No 2698
4 for the Ferry Terminal Security Enhancement project. Steel Fab was a subcontractor hired by
5 Angotti. OLSE conducted an investigation of Steel Fab, and determined that Steel Fab had not
6 complied with various provisions of the prevailing wages law. On September 11, 2006, OLSE
7 issued a Certification of Forfeiture detailing its findings. OLSE determined that \$18,153.00 in back
8 wages was owed to seven of Steel Fab's workers. In addition, OLSE assessed statutory penalties
9 of \$50 00 per worker per day totaling \$3,650.00, plus \$256.88 for apprenticeship training funds,
10 for total wages and penalties of \$22,059.88. (Hearing Officer Exhibit 1)

11 3. OLSE/Port notified Angotti of the forfeiture by certified U.S. mail. The notification letter
12 was prepared on September 14, 2006 and was addressed only to Jim Reilly as President of
13 Angotti and Reilly, Inc. It was signed by Ed Byrne, Chief Harbor Engineer of the Port, and Donna
14 Levitt, Labor Standards Enforcement Officer at OSLE. A copy of the Certification of Forfeiture
15 was enclosed. The letter stated, in pertinent part:

16 ...The Port and OLSE believe this assessment to be fair and reasonable.
17 Contemporaneously with this letter, the Port will instruct the City Controller to withhold
18 \$22,059.88 from payment due under the contract, in accordance with the San Francisco
Administrative Code section 6.22(E).

19 If you or your subcontractor disagrees with the assessment, you or your
20 subcontractor may request a hearing by submitting a written objection within 15 days of
21 the date of this letter. The request should be sent to Ed Harrington, Controller, City Hall,
22 Room 316, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. You may also call
Labor Standards Enforcement Officer Donna Levitt at (415) 554-6239 if you have any
questions concerning the assessment.

23 A copy of the recently revised San Francisco Administrative Code section 6.22(E) is
enclosed for your information. The hearing procedure is set forth in §6.22(E)(8)(c).

24 (Hearing Officer Exhibit 1) (*emphasis added*)

25 4 The September 14, 2006 letter indicates that "cc" copies of the letter were sent to
26 various City employees. However, OLSE/Port did not serve the notice on the subcontractor, Steel
27 Fab Angotti received the letter on September 19, 2006, as evidenced by the post office return
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1 receipt signed by an Angotti employee on that date. (Hearing Officer Exhibit 1) It is unclear when
2 the letter was actually deposited in the U.S. mail.

3 5. OLSE/Port presented a witness, Mary Marzotto, to testify regarding the preparation
4 and mailing of the notification letter. Ms. Marzotto is a contract compliance officer at OLSE. She
5 credibly testified that she prepared both the Certification of Forfeiture and the September 14th
6 notification letter, which was based on a standard template utilized by her office. To the best of
7 her recollection and in accordance with her standard procedure, Ms. Marzotto prepared the letter
8 on the morning of September 14, 2006, submitted it to the Port for Mr. Byrne's signature, picked
9 the letter up from the Port and then had Ms. Levitt at OSLE sign it. Ms. Marzotto credibly testified
10 that she prepared the certified mail form and put the envelope in her department's outgoing mail
11 box on September 14th in time for the 4 p m mail pickup. According to Ms. Marzotto, the outgoing
12 mail is picked up by the City's mail staff twice a day. She testified that she does not know where
13 the mail is taken once it is picked up from her office. She also does not know when the certified
14 letter in this case was actually taken to the post office or deposited in the U.S. mail system. The
15 only receipt she received was the return receipt that was signed by Angotti on September 19,
16 2006.

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18 6. Angotti concedes that the certified letter was received at its office on September 19th.
19 However, Angotti's President, Mr. Reilly, did not see it until the following afternoon, September
20 20th, 2006. He faxed a copy of the letter to Steel Fab on September 20th. (Hearing Officer Exhibit
21 2)

22 7. Angotti initially decided not to contest the OLSE determination. However, on October 5,
23 2006, Mr. Reilly discovered new information that led him to believe that the forfeiture
24 determination was in error. He faxed a request for appeal to Mary Marzotto at OLSE the same
25 day (Hearing Officer Exhibits 1 and 2) On October 6, 2006, Donna Levitt of OLSE faxed Mr
26 Reilly a letter advising that the request for hearing should be addressed to the City Controller, as
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1 outlined in the September 14th letter. (Hearing Officer Exhibit 1) On October 6, 2006, Angotti
2 delivered the request for hearing to the Controller. (Hearing Officer Exhibits 1 and 2)

3 **The Parties' Contentions Regarding Timeliness of Request for Hearing**

4 8. Section 6.22(E)(8) does not specify when notification occurs for purposes of calculating
5 the 15-day period for requesting a hearing. OSLE/Port contend that the notification of forfeiture
6 occurred on September 14, 2006, the date of the certified letter to Angotti, and that the time for
7 requesting a hearing expired 15 days thereafter on September 29, 2006. (Hearing Officer Exhibit
8 1) OLSE/Port argue in the alternative that the latest date notification occurred was September 19,
9 2006, the date Angotti signed the return receipt, in which case the 15-day period expired on
10 October 4, 2006. In either case, OLSE/Port assert, Angotti's hearing request was untimely
11 because it was not submitted to the Controller until October 6, 2006. OLSE/Port claim that
12 Angotti's October 5, 2006 letter was likewise untimely and furthermore, was defective because it
13 was addressed to the wrong entity (OLSE) instead of the Controller. (Hearing Officer Exhibit 1)

14 9. Angotti argues that the 15-day period did not start running until Mr. Reilly actually read
15 the notice on September 20, 2006, in which case the appeal period expired on October 5, 2006.
16 (Hearing Officer Exhibit 2) Angotti additionally contends that its letter to OLSE of October 5, 2006
17 was both timely and sufficient to put OLSE/Port on "constructive notice" of its intent to appeal,
18 even though it was sent to the wrong office. Moreover, Angotti argues, since the City was allowed
19 to serve its pre-hearing brief one day late, so, too, should Angotti be given an extension or "grace
20 period" for submitting the request for hearing. Citing California Civil Code Section 3275, Angotti
21 argues that the "law abhors a forfeiture" and that due process under the Fourth Amendment
22 mandates a hearing on the merits

23 10. In its post-hearing brief, Angotti additionally contends that the September 14th
24 notification letter was flawed for several reasons. First, OLSE/Port failed to give notice to the
25 affected subcontractor, Steel Fab, even though the Ordinance states that the subcontractor also
26 has a right to contest the forfeiture by requesting a hearing. Angotti cites *Hankla v. Governing Bd.*
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1 of *Roseland School District* (1975) 46 Cal.App.3d 644, arguing that the notice must be reasonably
2 calculated to apprise interested parties of the pendency of the action and afford them an
3 opportunity to present their objections. Second, Angotti asserts, the September 14th letter
4 misstated the provisions of the code by "arbitrarily attempting to reduce the appeal period from
5 '15 days of the date of the notification of forfeiture' to '15 days of the date of this letter'" Angotti
6 cites a Colorado Supreme Court case, *Holly Development, Inc. v. Board of County*
7 *Commissioners* (1959) 140 Colo 95; 342 P.2d 1032, for the proposition that a written notice that
8 is ambiguous, misleading and unintelligible to the average person is insufficient. Third, Angotti
9 claims that the September 14th letter was ambiguous with regard to where the appeal should be
10 sent, by stating that the appeal "should" be sent to the City Controller and also stating that Angotti
11 "may also call Labor Standards Enforcement Officer Donna Levitt" with any questions concerning
12 the assessment. (Hearing Officer Exhibit 1) As a result of these deficiencies, Angotti argues, the
13 notice was improper and the City should be directed to correct the letter and renotice all parties.
14 (Angotti Post-Hearing Brief)

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16 11. OLSE/Port contend that they had no obligation to separately notify Steel Fab of the
17 forfeiture, because the City did not have a contract with the subcontractor and could only withhold
18 funds due to the prime contractor. (OLSE/Port Post-Hearing Reply Brief) At the hearing,
19 OLSE/Port's attorney asserted that it was Angotti's duty to notify the subcontractor of the
20 forfeiture, as well as the 15-day period for requesting a hearing. OLSE/Port did not specifically
21 respond to Angotti's other arguments concerning the sufficiency of the September 14th letter,
22 other than to state that they disagreed with the material statements in Angotti's brief. (OLE/Port
23 Post-Hearing Reply Brief)

24 12 With regard to the Hearing Officer's inquiry – whether the 15-day period is mandatory
25 and jurisdictional or merely directory – OLSE/Port assert that it is mandatory and jurisdictional
26 and cannot be extended for any reason. Citing *California Correctional Peace Officers Association*
27 *v. State Personnel Board* (1995) 10 Cal.4th 1133, 1145; and *Pressler v. Donald L. Bren Co.*

1 (1982) 32 Cal 3d 831, OLSE/Port argue that the language of the ordinance is mandatory and
2 does not provide for exceptions or waiver under any circumstances. They contend that the
3 mandatory and jurisdictional nature of the 15-day requirement is evidenced by the fact that the
4 statute provides for a specific consequence upon failure to comply, *i.e.*, the contractor's failure to
5 submit a timely, written request for hearing "shall constitute concession to the assessment and
6 the forfeiture shall be deemed final upon expiration of the 15-day period." [Admin Code
7 §6.22(E)(8)(c)(I)]

8 13. In its reply brief, Angotti attempts to distinguish the *Pressler* decision, arguing that
9 *Pressler* involved a request for relief based on failure to file a timely appeal in court from a
10 decision by the Labor Commissioner following an administrative hearing, whereas this case
11 involves a forfeiture where there has been no administrative hearing at all. Furthermore, Angotti
12 argues, the defective nature of the September 14th notice violated procedural due process, in that
13 it confused the time period for requesting a hearing [Citing *Petrillo v. Bay Area Rapid Transit*
14 *Dist.* (1988) 197 Cal.App.3d 798, 807, 808, *Gamet v Blanchard* (2001) 91 Cal App 4th 1276]

16 HEARING OFFICER'S FINDINGS

17 14. Administrative Code Section 6.22(E)(8)(b) specifies that certification of forfeitures
18 shall be made only upon an investigation "...and upon written notice to the contractor identifying
19 the grounds for the forfeiture or forfeitures." The sole method for objecting to a forfeiture is for the
20 contractor or subcontractor to submit a written request for a hearing to the City Controller "within
21 15 days of the date of the notification of forfeiture. Failure to submit a timely, written request for a
22 hearing shall constitute concession to the assessment and the forfeiture shall be deemed final
23 upon expiration of the 15-day period." [Administrative Code Section 6.22(E)(8)(c)(I)]

24 15. In order to decide whether Angotti's request for hearing was timely, it is first
25 necessary to determine when the statutorily required notice of forfeiture occurred for purposes of
26 calculating the 15-day period. OLSE/Port's position that the time for objection began running as of
27 the date of the letter, September 14, 2006, is rejected. There is no evidence that the letter was
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1 actually mailed on that date. OLSE/Port's witness, Mary Marzotto, testified only that the letter was
2 prepared on that date, and that the City's mail staff picked up the mail from her office at 4 p.m. on
3 September 14th. However, she had no knowledge of when the letter was taken to the post office
4 or deposited in the U.S. mail system. The post office delivered the certified letter to Angotti five
5 days later. There is no suggestion or evidence that Angotti did anything to frustrate or avoid
6 service of the notice. [*Compare Hankla v. Governing Bd. Of Roseland School Dist* (1975) 48
7 Cal.App.3d 644] Based on all the evidence, and under the circumstances of this particular case,
8 the undersigned Hearing Officer finds that notification of the forfeiture occurred on September 19,
9 2006, the date Angotti signed the return receipt for certified mail. Angotti's contention that the
10 notification did not occur until its President actually read the letter is rejected.

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12 16. In accordance with the standard method for calculating statutory time limits, the 15-
13 day period shall be counted by excluding the date of receipt (September 19, 2006) and counting
14 the next calendar day, September 20, 2006, as the first day. Thus, the 15th and last day for
15 Angotti to file its request for hearing was Wednesday, October 4, 2006

16 17. It is undisputed that Angotti's written request for a hearing was not submitted to the
17 Controller until October 6, 2006, two days after the deadline expired. Angotti's October 5, 2006
18 letter was improperly addressed to the wrong office, and it too was late by one day. The 15-day
19 period is clearly and unambiguously set forth in Section 6.22(E)(8)(c)(i). The consequences of
20 failing to timely request a hearing are also clearly stated in the ordinance. The statute provides no
21 discretion to the Hearing Officer to excuse or extend the 15-day period, and the parties have cited
22 no controlling contrary legal authority.

23 18. The final issue to be determined is whether the September 14, 2006 notification letter
24 was fatally defective, as asserted by Angotti. Based on the evidence, the undersigned Hearing
25 Officer finds that the letter and the enclosed Certification of Forfeiture were sufficiently clear and
26 unambiguous to apprise the intended recipient, Angotti, of the certification of forfeiture, the
27 detailed reasons for the forfeiture, and the procedure for requesting a hearing to dispute the
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1 forfeiture. A copy of the Ordinance with a specific reference to the hearing procedure was also
 2 enclosed with the letter. While the letter incorrectly stated that the 15-day period began running
 3 as of the date of the letter, there is no evidence that Angotti was misled or confused by this
 4 statement. In fact, Mr. Reilly stated that he had no intention of appealing the OLSE's
 5 determination until he discovered new information on October 5, 2006. Thus, the delay in
 6 requesting the hearing was not caused by confusion about the appeal deadline, but by Angotti's
 7 change of heart after the deadline expired.

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 9 19. Based on all the evidence, the undersigned Hearing Officer concludes that Angotti's
 10 request for a hearing was untimely because it was not submitted within 15 days of notification of
 11 the forfeiture. Therefore, the Hearing Officer does not have jurisdiction to hear the merits of this
 12 case. Pursuant to Administrative Code Section 6.22(E)(8)(c)(i), Angotti has conceded to the
 13 assessment and the forfeiture is deemed final.

14 20. Angotti has also contested the sufficiency of the September 14, 2006 notice on the
 15 ground that OLSE/Port did not serve the notice on the affected subcontractor, Steel Fab.
 16 However, since Steel Fab has not objected to the forfeiture, did not request a hearing and is not a
 17 party to this proceeding, no determination is made with regard to any of the following issues:
 18 whether OLSE/Port was required to give notice to Steel Fab, whether Steel Fab has an
 19 independent right to request a hearing, and whether the time for Steel Fab's exercise of any such
 20 right has begun running and/or has expired.

ORDER

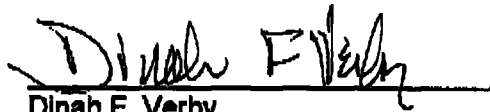
21
 22 1 Pursuant to Administrative Code Section 6.22(E)(8)(c)(i), Angotti's request for a
 23 hearing on the merits is denied because it was not made within 15 days of notification of the
 24 forfeiture. Accordingly, this case is dismissed without further hearing due to the lack of jurisdiction
 25 of the Hearing Officer to hear the merits.

26 2. Pursuant to Administrative Code Section 6.22(E)(8)(c)(vi), this Dismissal is a final
 27 determination which may be appealed only by filing in the San Francisco Superior Court a petition
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1 for a writ of mandate under California Code of Civil Procedure, Section 1084, et seq., as
2 applicable and as may be amended from time to time.

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Dated. January 22, 2007


Dinah F. Verby
Hearing Officer

PROOF OF SERVICE

I, DEBBIE TOY, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at the Controller's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Suite 316, San Francisco, CA 94102.

On January 23, 2007, I served the attached

Hearing Officer's Order of Dismissal in the Matter of Appeal of Contractor Angotti & Reilly, Inc., from a Determination by the City and County of San Francisco Office of Labor Standards Enforcement and the Port of San Francisco Regarding Contract No. 2698, "Ferry Terminal Security Enhancement,"

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

James Reilly, President
Angotti & Reilly
1000 Mariposa Street
San Francisco, CA 94107

Fax: (415) 575-3700

Sheryl L. Bregman, Deputy City Attorney
San Francisco City Attorney's Office, Labor Team
1390 Market Street, 5th Floor
San Francisco, CA 94102
Counsel to the Office of Labor Standards
Enforcement (OLSE)

Fax: (415) 255-0733

Donna Levitt, Division Manager
Office of Labor Standards Enforcement
City Hall, Room 430
1 Dr Carlton B. Goodlett Place
San Francisco, CA 94102

Fax: (415) 554-6291

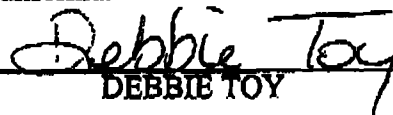
and served the named document in the manner indicated below:

BY MAIL. I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at the Controller's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Suite 316, City and County of San Francisco, California, 94102, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

BY FACSIMILE: I caused a copy(ies) of such document(s) to be transmitted via facsimile machine. The fax number of the machine from which the document was transmitted was (415) 554-7466. The fax number(s) of the machine(s) to which the document(s) were transmitted are listed above. The fax transmission was reported as complete and without error. I caused the transmitting facsimile machine to print a transmission record of the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed January 23, 2007, at San Francisco, California.


DEBBIE TOY