

ARNOLD, NEWBOLD, WINTER & JACKSON, P.C.

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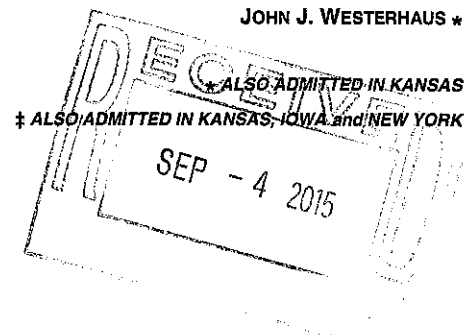
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BRADLEY J. SOLLARS ♦ ‡
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♦ SHAREHOLDER

● ALSO ADMITTED IN WISCONSIN AND D.C.

September 2, 2015



Dr. John Jungmann
 Superintendent
 Springfield Public Schools
 1359 E. St. Louis
 Springfield, MO 65802

Re: *Missouri Sunshine Act Request/Sherwood Elementary project*
Our Client: *BAC Local 15 Fringe Benefit Funds*
Project: *Sherwood Elementary School Project*

General Contractor: *Dewitt & Associates*
Subcontractor: *Jerry Bennett Masonry Contractor, Inc.*
Our File No.: *B15-NEW*

Dear Dr. Jungmann:

Please be advised the undersigned represents the BAC Local 15 Fringe Benefit Funds. A subcontractor on a project for the Springfield Public Schools, Jerry Bennett Masonry Contractor, Inc., has failed to pay certain fringe benefit contributions on behalf of its bricklayer employees to the BAC Local 15 Fringe Benefit Funds, as required pursuant to Missouri's prevailing wage laws and the relevant collective bargaining agreements to which the subcontractor is a party.

According to information available to this office, Jerry Bennett Masonry Contractor, Inc. was a subcontractor to DeWitt & Associates on the Sherwood Elementary school construction project.

Pursuant to the Missouri Sunshine Law, please provide the undersigned with a copy of the payment and/or surety bond(s) posted by Jerry Bennett Masonry Contractor, Inc. and/or DeWitt & Associates that covers labor costs on the above-referenced project.

In addition, again pursuant to the Missouri Sunshine Law, please provide the undersigned a copy of the certified payroll records submitted by Jerry Bennett Masonry Contractor, Inc. from the project inception to date.

If this request is misdirected, please direct the undersigned to the proper city office to which this request should be made. If there are any fees for searching for and/or copying the requested documents, please enclose your statement with the documents for prompt payment. If all or part of this request is denied, please cite the specific exemptions which support the denial of said request.

Thank you for your immediate attention to this request. If you have any questions, please do not hesitate to contact me.

Very truly yours,

ARNOLD, NEWBOLD, WINTER & JACKSON, P.C.

Bradley J. Sollars

BJS:dp
 cc: DeWitt & Associates



Helping today's kids fill tomorrow's promise.

John E. Jungmann, Ed.D.
Superintendent

September 9, 2015

Mr. Bradley J. Sollars
Arnold, Newbold, Winter & Jackson, P.C.
1100 Maine Street, Suite 2001
Kansas City, MO 64105-5178

Dear Mr. Sollars:

This letter will respond to your letter dated September 2, 2015, and received in my office on September 4, 2015. Your letter requests certain public records pursuant to the Missouri Sunshine Statute. More specifically, your letter requests the following:

“...please provide the undersigned with a copy of the payment and/or surety bond(s) posted by Jerry Bennett Masonry Contractor, Inc. and/or DeWitt & Associates that covers labor costs on the above referenced project.

In addition.....please provide the undersigned a copy of the certified payroll records submitted by Jerry Bennett Masonry Contractor, Inc. from the project inception to date.”

Initially, in order to be subject to disclosure under the Missouri Sunshine Law, documents must constitute “public records” of the “public governmental body.” In this case, the “public governmental body” is the Board of Education for the School District of Springfield, R-12. The term “public records” is defined in Section 610.010(6) RSMo. as follows:

(6) “Public record” -- *any record*, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting.”

Thus, the term "public record" includes only those records, either written or electronic, that are already in existence that the public governmental body is "holding" or "retaining" in its possession. *Jones v Jackson County Circuit Court*, 162 S.W.3d 53, 59 (Mo App 2005).

The District will not provide you with public documents which may be encompassed by your request that are closed records. Included in these closed public documents are the following:

- The minutes of closed meetings of the Board of Education which were closed pursuant to Section 610.021 RSMo, and not otherwise required to be revealed;
- Privileged communications between the Board of Education or its representatives and its attorneys pursuant to Section 610.021(1) RSMo;
- Records involving the hiring, firing, disciplining or promoting of particular employees by the Board of Education when personal information about the employee is discussed or recorded, except those public records which have been made public pursuant to Section 610.021(3) RSMo;
- Records involving software codes for electronic data processing and documentation thereof pursuant to Section 610.021(10) RSMo;
- Documents related to a negotiated contract until a contract is executed, pursuant to Section 610.021(12) RSMo;
- Documents which constitute individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, pursuant to Section 610.021(13) RSMo;
- Records which are protected from disclosure by law pursuant to Section 610.021(14) RSMo;
- Confidential or privileged communications between a public governmental body and its auditors, including all auditor work product pursuant to Section 610.021(17) RSMo;
- Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of the District pursuant to Section 610.021(20) RSMo;
- Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between the Board of Education and a person or entity doing business with the Board pursuant to Section 610.021(21) RSMo.

With this explanation in mind, the Board responds as follows to your request:

Your request is approved by the District. The documents you requested are attached.

Thank you for your request.

Sincerely,

Kathy L. Looten

Kathy L. Looten
Executive Office Liaison/Records Custodian

cc: Ransom Ellis, III