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July 6, 2022

I am writing in response to the letter received by the board dated July 5, 2022, authored by Ms. Kara Principe of the “III FFC”. While I appreciate and respect her analysis, I cannot agree that, given the current makeup of the Iowa Supreme Court, the case *City of Des Moines v. Master Builders of Iowa* would be overturned. And that is the argument Ms. Principe is making - that the case should be overruled. My point was that as of today, *City of Des Moines v. Master Builders of Iowa* is the law. The Iowa Supreme Court made a ruling in a case where the language interpreted was essentially the same as the current statute that applies to Scott County – “lowest responsible bidder”.

In addition, on his very first day in office after being re-elected, Governor Branstad signed Executive Order Number 69 [“EO # 69”]. EO # 69, prohibits the State and its political subdivisions from entering into project labor agreements [“PLAs”] on state-owned or state-funded construction projects. “State Funds” is broadly defined as “any tax payer dollars or other funds of the State,” and includes, *inter alia*, “general fund obligations, income taxes, and property taxes.” A “Public Owner” is “any person or entity receiving or using State Funds in whole or in part,” and includes the State and any of its political subdivisions. “Political subdivisions” is also expansive and includes cities, counties, school districts, or any other organization that “receives or uses any State Funds.” Lastly, “Public Works Project” denotes any building or other project “which is constructed by or under the control of a Public Owner and is paid for in whole or in part with State Funds or funds from any federal source.” See *Central Iowa Bldg. and Const. Trades Council v. Branstad*, 2011 WL 4004652, 191 L.R.R.M (S.D. Iowa 2011) (upholding the authority of Governor Branstad to restrict project labor agreements and dismissing the case).

EO # 69 specifically states that Political Subdivisions shall “not enter into or utilize any sort of agreement that attempts to impose any of the following requirements as a condition of submitting a bid or entering into a construction contract for or relating to a Public Works Project that

...

f. Mandates wage levels, except in those instances of federal Davis-Bacon wage requirements”.¹

Scott County clearly is using federal funds and property tax dollars for the construction of the JDC. As such, Scott County is subject to the mandates of EO # 69. Pursuant to Executive Order and current case law, Scott County cannot mandate wage levels.

Respectfully submitted,

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¹ This explains why the Davis-Bacon wage language is in some of the road work contracts – those may require Davis-Bacon wages while the SLFRF funding does not.