



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

April 11, 2012

Tony Scurto, Superintendent
Pleasant Hill School District No. 1
36386 Highway 58
Pleasant Hill, OR 97455

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Replacement of Pleasant Hill High School Track and Athletic Field
Requested by: Pleasant Hill School District No. 1

Dear Mr. Scurto:

On April 2, 2012, you submitted a request on behalf of Pleasant Hill School District No. 1 asking if the Prevailing Wage Rate laws would apply to a proposed project to replace the track and athletic field at the Pleasant Hill High School. Sufficient information to make such a determination was received on April 9, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Pleasant Hill School District No. 1 (the "District") owns Pleasant Hill High School, which includes the property on which the current athletic track and field stand.
2. The District states the High School athletic track needs to be replaced. In addition, the District states that if the grass field inside the track were replaced with an all-weather turf surface, this would allow for increased use by the school and the community.
3. The Pleasant Hill High School Booster Club ("Booster Club") proposes to raise money to fund the replacement of the High School's athletic track, and to fund the installation of an all-weather turf surface on the field inside the athletic track. All funds to be used for the proposed project will be collected from private sources by the Booster Club, and will remain in the Booster Club's custody and control. The total project cost is estimated to be \$750,000.
4. The District may assist with the design and inspection of the project, but will not contribute any funds of the public agency, either directly or indirectly, to the project.

PORTLAND
800 NE Oregon St. Suite 1045
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(971) 673-0761
Fax (971) 673-0762

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Eugene, OR 97401-7103
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CONCLUSIONS OF LAW

1. The proposed project to replace the track and athletic field at the Pleasant Hill High School is a publicly-owned improvement that involves construction and reconstruction. Therefore, the project could be a "public works" under ORS 279C.800(6)(a)(A).
2. Regardless of whether the proposed project is a public works under ORS 279C.800(6)(a)(A), the exemption from the prevailing wage rate laws applies for projects that use no funds of a public agency, either directly or indirectly. ORS 279C.810(2)(b)

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the proposed project to replace the track and athletic field at Pleasant Hill High School.

This determination is based on the agency's file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

REQUEST FOR A RECONSIDERATION

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

RIGHT TO A HEARING

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, Oregon 97232

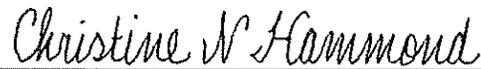
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: April 11, 2012

Brad Avakian, Commissioner
Bureau of Labor and Industries



Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On April 11, 2012, I mailed the Prevailing Wage Rate Determination for the proposed project to replace the track and athletic field at Pleasant Hill High School to the requestor and public agency associated with this project, as follows:

Tony Scurto, Superintendent
Pleasant Hill School District No. 1
36386 Highway 58
Pleasant Hill, OR 97455



Susan Wooley
PWR Technical Assistance Coordinator
Wage and Hour Division
Bureau of Labor and Industries