May 17, 2019

Kimberly Nevil, Chief Executive Officer
Hermiston Chamber of Commerce
1055 S. Hwy. 395
Hermiston, OR 97838

Re: Determination Whether Project is Subject to Prevailing Wage Rate Laws
Project: New Hermiston Chamber of Commerce Building
Requested by: Hermiston Chamber of Commerce

Dear Ms. Nevil:

On May 7, 2019, the Bureau of Labor and Industries received your request asking if the Prevailing Wage Rate laws would apply to the proposed construction of the new Hermiston Chamber of Commerce Building. Sufficient information to make a determination was received on May 16, 2019, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. Through 2018’s House Bill 5201, $1,000,000 was appropriated to the Oregon Department of Administrative Services (“DAS”), a public agency under ORS 279C.800(5). DAS then provided these funds as a grant to the Port of Umatilla (the “Port”), a public agency under ORS 279C.800(5). According to the grant agreement issued by DAS to the Port on April 11, 2018, the purpose of the grant is to build a new facility that will house the Hermiston Chamber of Commerce. For purposes of this determination, the project is referred to as the New Hermiston Chamber of Commerce Building (the “Project”).

2. The Hermiston Chamber of Commerce (the “Chamber”) Board of Directors requested approximately $315,000 of the grant funds from the Port to purchase undeveloped land in the City of Hermiston on which the new facility will be built. The property, located on East Evelyn Avenue and South Highway 395, has been purchased.

3. The Chamber Board of Directors has hired a private individual to monitor the Project, and the Chamber will likely award the contracts for construction. No public agency will
carry on or contract for the Project. The Chamber or the Chamber Board of Directors will request the remaining grant funds from the Port to pay for construction of the Project.

4. The total project cost is estimated to be $1,600,000. The Chamber is currently planning the fundraising process for the remaining $600,000 needed to pay for the project. It is not known at this time if the remaining funds to be raised will be private funds or funds of a public agency.

CONCLUSIONS OF LAW

1. The Project meets the definition of “public works” under ORS 279C.800(6)(a)(B) and OAR 839-025-0004(20)(a)(B), as the Project will include the construction of a building and will use $750,000 or more of funds of a public agency.

2. No exemptions from the Prevailing Wage Rate laws under ORS 279C.810 apply to the Project.

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to the New Hermiston Chamber of Commerce Building project.

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:

New Hermiston Chamber of Commerce Building Coverage Determination
Hermiston Chamber of Commerce
Page 2 of 4
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, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.  

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 order 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.  

Date: May 17, 2019  

Val Hoyle, Commissioner  
Bureau of Labor and Industries  

Lois Johnson, Interim Administrator  
Wage and Hour Division  
Bureau of Labor and Industries  

New Hermiston Chamber of Commerce Building  
Coverage Determination  
Hermiston Chamber of Commerce  
Page 3 of 4
Certificate of Service

On May 17, 2019, I mailed the Prevailing Wage Rate Determination for the New Hermiston Chamber of Commerce Building project to the requestor and interested party, as follows:

Kimberly Nevil, Chief Executive Officer
Hermiston Chamber of Commerce
1055 S. Hwy. 395
Hermiston, OR 97838

Kim Puzey, General Manager
Port of Umatilla
500 Willamette Street
Umatilla, OR 97882

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