



April 7, 2016

Krischele Whitnah  
Whitnah & Hampton Law, LLC  
1920 1<sup>st</sup> Street  
Baker City, OR 97814

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: New Fire Station  
Requested by: Whitnah & Hampton Law, LLC

Dear Ms. Whitnah:

On March 21, 2016, the Bureau of Labor and Industries received your request on behalf of the Pine Valley Rural Fire Protection District asking if the Prevailing Wage Rate laws would apply to the construction of a new fire station in Halfway, Oregon. Sufficient information to make a determination was received on April 5, 2016, and therefore, the commissioner issues the following determination:

## FINDING OF FACT

1. Pine Valley Rural Fire Protection District ("PVRFPD"), an Oregon Municipal Corporation, is a public agency as defined under ORS 279C.800(5), and is regulated under ORS Chapter 478.
2. Senate Bill 5507 from the 2015 Legislative Session authorized a disbursement of \$850,000 from General Funds to PVRFPD; \$400,000 was for the acquisition of property, which PVRFPD has since purchased, and \$450,000 may be used for the construction of a new fire station on the property. The actual cost of construction is not known at this time, but the PVRFPD Board has discussed an approximate construction cost of \$300,000.
3. The PVRFPD Board will select plans and specifications for the new fire station, will contract for the construction of the new fire station, and will oversee the construction project.

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## **CONCLUSIONS OF LAW**

1. The proposed project to build a new fire station in Halfway, Oregon is a construction project that is being carried on and contracted for by a public agency to serve the public interest. Therefore, the project is a "public works" under ORS 279C.800(6)(a)(A).
2. The total project cost will exceed \$50,000, and therefore the exemption from Prevailing Wage Rate laws under ORS 279C.810(2)(a) does not apply to the project.
3. The project will use funds of a public agency, and therefore the exemption from the Prevailing Wage Rate laws under ORS 279C.810(2)(b) does not apply to the project.
4. None of the other exemptions from the Prevailing Wage Rate laws will 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 construction of a new fire station in Halfway, Oregon.

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, 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: April 7, 2016

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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Gerhard Taeubel, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

On April 7, 2016, I mailed the Prevailing Wage Rate Determination for proposed project to build a new fire station in Halfway, Oregon to the requestor and associated public agency, as follows:

Krischele Whitnah  
Whitnah & Hampton Law, LLC  
1920 1<sup>st</sup> Street  
Baker City, OR 97814

Pine Valley Rural Fire Protection District  
PO Box 452  
Halfway, OR 97834



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