

January 28, 2010

Roger Roper, Assistance Director, Heritage Programs Division  
Oregon Parks and Recreation Department  
725 Summer St. NE, Suite C  
Salem, OR 97301-1266

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Fort Yamhill Officer's Quarters Conservation, Phase III  
Requested by: Oregon Parks and Recreation Department

Dear Mr. Roper:

On January 22, 2010, you submitted a request asking if the Prevailing Wage Rate law would apply to Phase III of the Fort Yamhill Officer's Quarters Conservation project. Sufficient information to make a determination was received on January 28, 2010, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. The Oregon Parks and Recreation Department ("OPRD") owns Fort Yamhill State Heritage Area. This state park includes the remnants of officer's quarters dating from the 1850s. OPRD has been doing conservation work on the project since 2007, and is now planning to begin Phase III of the project.
2. OPRD will be contracting for the work to be done on Phase III of the Fort Yamhill Officer's Quarters. This work includes:
  - Rebuilding a bay window. This includes creation of a sub-floor structure; installing new replacement flooring; removal of the roof; repairing the roof sheathing; re-shingling the roof; repairing as necessary the crown molding, casing and window sills; repairing panels and molding within the bay window; and repairing structural members as needed.
  - Reconstructing the front porch. The front porch is presently missing, so this will be new construction.
  - Interior restoration. This includes repairing the floor; replacing missing sections of floor; repairing interior doors and door frames; rebuilding the fireplace; reconstructing the mantels; restoring the attic floor; and painting and graining the interior wood work.

3. ORPD will preserve as much of the original material as possible. The construction and reconstruction work that needs to be completed will use building components authentic to the 1850s, including working with tools from the mid-19<sup>th</sup> century in the fabrication of building replacement parts.
4. The total project cost is estimated to be \$100,000 to \$120,000. Approximately \$25,000 in OPRD funds will be used on the project. Oregon State Parks Trust, OPRD's non-profit partner, is providing the remainder of the funding for this project.

### **CONCLUSIONS OF LAW**

1. The Fort Yamhill Officer's Quarters Conservation, Phase III project is an improvement that involves construction, reconstruction, major renovation, and painting. The project will be carried on and contracted for by a public agency to serve the public interest. Therefore, the proposed project is a "public works" under ORS 279C.800(6)(a)(A).
2. None of the exemptions from the prevailing wage rate laws provided for in ORS 279C.810(2) apply to this 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 Fort Yamhill Officer's Quarters Conservation, Phase III 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:

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: January 28, 2010

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 January 28, 2010, I mailed the Prevailing Wage Rate Determination for the Fort Yamhill Officer's Quarters Conservation, Phase III project to the requestor, as follows:

Roger Roper, Assistance Director, Heritage Programs Division  
Parks and Recreation Department  
725 Summer St. NE, Suite C  
Salem, OR 97301-1266

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