

David Moore
Canby School District
1130 S Ivy
Canby OR 97013

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Canby High School Turf Replacement
Requested by: Canby School District

Dear Mr. Moore:

On October 23, 2007, you submitted a request on behalf of the Canby School District (“District”), asking if the prevailing wage rate law would apply to a proposed project consisting of the replacement of a natural turf field with synthetic turf at Canby High School. Sufficient information to make a determination was received on October 23, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The District represents that Canby Booster Club, Inc. (“Booster Club”), a public benefit, nonprofit corporation, will both fund and contract for the turf replacement at Canby High School’s field, a publicly owned facility.
2. The District further represents that no funds of a public agency will be used to finance the work, that no funds obtained by the Booster Club for the project will be in the District’s custody or control, and that no government grant issued for the purpose of construction will be used in connection with the project.
3. The improvements are not part of a larger project that has been carried on or contracted for by a public agency.

CONCLUSIONS OF LAW

1. The project does not involve the construction, reconstruction, major renovation or painting of a privately owned road, highway, building, structure, or improvement that uses funds of a private entity and \$750,000 or more of funds of a public agency. ORS 279C.800(6)(a)(B) does not apply.
2. The project does not involve the construction, reconstruction, major renovation or painting of a privately owned road, highway, building, structure, or improvement that uses funds of a private entity and in which 25 percent or more of the square

footage of the completed project will be occupied or used by a public agency. ORS 279C.800(6)(a)(C) does not apply.

3. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for projects for which no funds of a public agency are directly or indirectly used. 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, do not apply to the turf replacement project at Canby 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.

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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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: October 31, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries

Christine N. Hammond

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

Certificate of Service

On October 31, 2007, I mailed the Prevailing Wage Rate Determination for the Canby High School Turf Replacement Project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

David Moore
Canby School District
1130 S Ivy
Canby OR 97013

Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries