Oregon

Bureau of Labor and Industries
Brad Avakian
Commissioner

October 9, 2015

Spencer McCoy
Housing and Community Services Agency of Lane County
177 Day Island Road
Eugene, OR 97401

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: The Oaks at 14th
Requested by: Housing and Community Services Agency of Lane County

Dear Mr. McCoy:

On September 28, 2015, the Bureau of Labor and Industries received your request on behalf of the Housing and Community Services Agency of Lane County asking if the Prevailing Wage Rate laws would apply to the proposed construction project known as The Oaks at 14th. Sufficient information to make a determination was received on October 8, 2015, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. The Housing and Community Services Agency of Lane County ("HACSA"), a public agency under ORS 279C.800(5), owns property located at 1420 and 1430 Oak Patch Road in Eugene, Oregon. HACSA proposes to collaborate with Sponsors, Inc., a domestic non-profit company, to develop the property by building an apartment community for people with criminal histories. The project is known as The Oaks at 14th.

2. On September 29, 2015, the HACSA board authorized the formation of The Oaks at 14th LLC and Oaks Manager LLC. Upon closing of construction financing, which is currently scheduled for March 18, 2016, HACSA will transfer ownership of the property to The Oaks at 14th LLC. US Bank will be the limited partner in The Oaks at 14th LLC, with 99.99 percent interest. Oaks Manager LLC will serve as the managing member of The Oaks at 14th LLC, with .01 percent interest. HACSA will be the sole member of Oaks Manager LLC.

3. Construction will begin on The Oaks at 14th after ownership has been transferred to The Oaks at 14th LLC. The project will be a 54-unit apartment complex made up of two- and three-story buildings. It will include a community building, community gardens, and

parking. The community building will include a computer lab, a gym, and space for Sponsors, Inc. staff and a Lane County Parole and Probation officer. Resident services will be provided and include employment services, behavioral health, substance abuse, and financial literacy.

4. Of the 54 apartment units, 17 will be restricted to occupants with incomes no greater than 50 percent of the area median; 36 units will be restricted to occupants with incomes no greater than 60 percent of the area median. One unit will be used for the property manager, and that unit will have no income restrictions.

5. The total construction cost is estimated to be $9,144,057. Funds of a public agency that will be used on the project include:

$100,000	Lane County Corrections Grant
$500,000	OHCS GHAP Grant

Private funds that will be used on the project include:

$7,817,331	LIHTC Limited Partner Equity
$382,726	Permanent Loan (NOAH)
$100,000	Sponsors, Inc. Grant

CONCLUSIONS OF LAW

1. The project meets the definition of "residential construction" in ORS 279C.810(2)(d)(D), as the project includes the construction of apartment buildings not more than four stories in height, and does not include any commercial space.

2. The property is currently owned by a public agency, but prior to construction, ownership of the property will be transferred to a limited liability company. HACSA, a public agency, will be the sole member of Oaks Manager LLC, the managing member of the limited liability company. However, Oaks Manager LLC will not be a majority owner in the limited liability company. Therefore, the project meets the definition of "privately owned" in ORS 279C.810(2)(d)(C)(ii).

3. The project meets the definition of "affordable housing" in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are not greater than 60 percent of the area median income. The proposed project will "predominately" provide affordable housing, as 60 percent or more of the units will be for affordable housing. ORS 279C.810(2)(d)(B).

4. Pursuant to ORS 279C.810(2)(d), the Prevailing Wage Rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. Even if this project meets the definition of "public works" under ORS 279C.800(6)(a), it will be exempt from the prevailing wage rate laws.

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 Oaks at 14th 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, 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: October 9, 2015

Brad Avakian, Commissioner
Bureau of Labor and Industries

Gerhard Taeubel

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

Certificate of Service

On October 9, 2015, I mailed the Prevailing Wage Rate Determination for The Oaks at 14th project to the requestor, as follows:

Spencer McCoy
Housing and Community Services Agency of Lane County
177 Day Island Road
Eugene, OR 97401

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