



September 13, 2012

Michael Andrews, Director  
Home Forward  
135 SW Ash St.  
Portland, OR 97204

Connie Dunkle-Weyrauch  
LifeWorks Northwest  
14600 NW Cornell Rd.  
Portland, OR 97229

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Beech Street Project  
Requested by: Home Forward and LifeWorks Northwest

Dear Mr. Andrews and Ms. Dunkle-Weyrauch:

On September 10, 2012, you submitted a request on behalf of Home Forward and LifeWorks Northwest asking if the Prevailing Wage Rate law would apply to the Beech Street Project ("project"). Sufficient information to make a determination was received on September 10, 2012, and therefore, the commissioner issues the following determination:

## FINDINGS OF FACT:

1. Beech Street Project is a new affordable housing construction project located at NE Beech Street and NE Mallory Street in Portland's Boise neighborhood. The project is a joint venture between LifeWorks Northwest and a limited liability partnership, to be formed prior to the start of construction. Home Forward will be a minority general partner of the limited liability partnership. LifeWorks Northwest is a private non-profit organization.

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2. The project involves the new construction of a three and four-story building that will include two wings: the “Home Forward wing” and the “LifeWorks Northwest wing.” The common area connecting the two wings will be 1,269 square feet and include a community room that will be shared by residents of both wings.
3. Both wings and the common areas connecting the two wings will be constructed under the same building permit, use the same architectural documents, share electrical and water service as well as mechanical systems, and will be constructed at the same time by the same contractor.
4. The Home Forward wing will be four-stories that include 32 housing units. All 32 units will be targeted to occupants whose incomes are at or below 15% of the area median income.
5. The LifeWorks Northwest wing will be three stories. The second and third floors will consist of 16 residential units. All 16 units will be occupied predominantly by women whose incomes are below 60% of the area median income. The first floor of this wing includes residential common areas such as a common foyer, elevator lobby, a daycare facility that serves only the children living in the residential units above, and office space and treatment rooms for drug and alcohol treatment. The treatment center will be run by LifeWorks Northwest and will serve only the women living in the residential units above.
6. The total project is estimated to cost \$17,834,200. Funding for the project includes the following sources:
  - a. Funds of a public agency: \$5,663,000
    - i. City of Portland Tax Increment Financing - \$4,500,000
    - ii. Oregon Housing & Community Services Weatherization - \$138,000
    - iii. Multnomah County - \$250,000
    - iv. Home Forward Equity & Deferred Fee - \$775,000
  - b. Other Funds: \$12,171,200
    - i. LIHTC (Low Income Housing Tax Credit) - \$7,789,200
    - ii. New Markets Tax Credits - \$1,074,300
    - iii. Systems Development Charges Waivers - \$557,700
    - iv. LifeWorks Loan/Fundraising Campaign - \$2,500,000
    - v. LifeWorks NW Equity - \$250,000

## **CONCLUSIONS OF LAW:**

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(B) because the project will be privately owned and will use \$750,000 or more of funds of a public agency.
2. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). The proposed project is a project for residential construction because it is a project for construction of apartment buildings not more than four stories in height. Additionally, the project will be privately owned by a private limited liability company and a private not-for-profit organization. The project will predominately provide affordable housing because the tenants will have incomes no greater than 60% of the area median. The daycare facility and the treatment center will serve only residents of the apartment buildings and therefore do not count as commercial space. Therefore, this exemption will apply.

## **DETERMINATION:**

The Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the proposed construction, reconstruction, major renovation and/or painting of the Beech Street 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 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, OR 97232

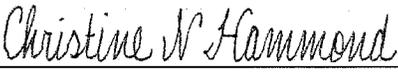
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: September 13, 2012

BRAD AVAKIAN, Commissioner  
Bureau of Labor and Industries

  
CHRISTINE N. HAMMOND,  
Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

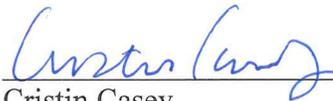
On September 13, 2012, I mailed the Prevailing Wage Rate Determination for the Beech Street Project to the requestor, as follows:

Michael Andrews, Director  
Home Forward  
135 SW Ash St.  
Portland, OR 97204

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 6187

Connie Dunkle-Weyrauch  
LifeWorks Northwest  
14600 NW Cornell Rd.  
Portland, OR 97229

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 6170



Cristin Casey  
Compliance Specialist  
Wage and Hour Division  
Bureau of Labor and Industries