February 19, 2019

Rose Ojeda, Director, Real Estate Development and Management
Hacienda Community Development Corporation
6700 NE Killingsworth St.
Portland, OR 97218

Re: Determination Whether Project is Subject to Prevailing Wage Rate Laws
Project: Las Adelitas Affordable Housing
Requested by: Hacienda Community Development Corporation

Dear Ms. Ojeda:

On February 5, 2019, the Bureau of Labor and Industries received the request you submitted asking if the Prevailing Wage Rate laws would apply to the proposed Las Adelitas Affordable Housing project. Sufficient information to make a determination was received on February 19, 2019, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Hacienda Community Development Corporation ("Hacienda") is a domestic nonprofit public benefit corporation that provides affordable housing, homeownership support, economic advancement, and educational opportunities to Oregonians. Hacienda currently owns property located in Portland and plans to construct an affordable housing residence on the property, referred to as Las Adelitas (the "Project"). The Project will be owned by a to-be-formed private entity. No public agency will own any portion of the Project.

2. The Project consists of the new construction of one building, four stories in height, containing 141 rental units ranging from studio to three bedroom apartments. It is comprised of 26 three-bedroom units, 71 two-bedroom units, 29 one-bedroom units, and 15 studio units. The Project will include onsite parking, a meeting room, laundry room, common area spaces, leasing office, and bike, maintenance and building storage. The Project will also include an event hall and a community room space/courtyard; Hacienda states these spaces will be used only to provide educational, community and economic development or health and wellness services to residents.
3. All of the units, with the exception of the manager’s unit, will be restricted to occupants with incomes no greater than 60 percent of the area median income.

4. The total project cost is estimated to be $49,300,000. The Project will use the following funds of a public agency:

- $10,600,000 City of Portland Metro Bond
- $50,000-$1,000,000 Business Oregon Infrastructure Grant
- $6,345,000 OHCS LIFT Bond
- $200,000 OHCS Weatherization
- $500,000 Metro Transit-Oriented Development Grant

The Project will use the following other funds:

- $17,932,779 OCHS 4% Low Income Housing Tax Credit
- $10,471,000 Permanent Loan Credit (NOAH)
- $750,000 Federal Home Loan Bank of Iowa – Grant
- $25,000 Bonneville Environmental Foundation Grant
- $1,800,000 Deferred Development Fee
- $1,800,000 Owner cash

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 or retail space.

2. The Project will be owned by a private entity, and is therefore “privately owned” under ORS 279C.810(2)(d)(C).

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 Project will “predominately” provide affordable housing, as 100 percent of the units will be for affordable housing. ORS279C.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 the Project met the definition of “public works” under ORS 279C.800(6)(a), it would 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 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

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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: February 19, 2019

Val Hoyle, Commissioner
Bureau of Labor and Industries

Lois Johnson, Interim Administrator
Wage and Hour Division
Bureau of Labor and Industries
Certificate of Service

On February 19, 2019, I mailed the Prevailing Wage Rate Determination for the
Las Adelitas Affordable Housing project to the requestor, as follows:

Rose Ojeda, Director, Real Estate Development and Management
Hacienda Community Development Corporation
6700 NE Killingsworth St.
Portland, OR 97218

[Signature]

Mike Kern
PWR Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries