July 10, 2019

Nicole Utz, Housing Services Supervisor
Salem Housing Authority
360 Church Street SE
Salem, OR 97301

Re: Determination Whether Project is Subject to Prevailing Wage Rate Law
Project: Redwood Crossing
Requested by: Salem Housing Authority

Dear Ms. Utz:

On June 18, 2019, the Bureau of Labor and Industries ("BOLI") received the request you submitted asking if the Prevailing Wage Rate laws would apply to the proposed Redwood Crossing project. Sufficient information to make a determination was received on July 9, 2019, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. In April 2019, the Salem Housing Authority (the “Housing Authority”), a public agency under ORS 279C.800(5), purchased property located at 4107 Fisher Road in Salem, Oregon. The property includes an existing three-story building that is approximately 80 percent complete. The building was intended to be used as senior housing, but was never finished. The Housing Authority will renovate the property to provide permanent supportive housing to very low-income households. The housing will be referred to as Redwood Crossing (the “Project”).

2. At the time of financial closing, ownership of the property will be transferred to Redwood Crossing, LLC. The sole member of Redwood Crossing, LLC is and will continue to be the Housing Authority.

3. The interior of the existing building is currently configured with two-room residential suites. The Housing Authority will convert the top two floors of the building into 30 single room occupancy (“SRO”) units and a one-bedroom ADA unit. Each of the units on the top two floors will include a sink, microwave, mini refrigerator, and cabinets. The one-bedroom ADA unit will have its own bathroom. The SRO units will share bathrooms, with one bathroom for every two SRO units. The occupants of the units on the top two floors will enter into one-year lease agreements with the Housing Authority.
The Housing Authority will renovate the first floor of the building to create six emergency medical care units that will be used for short-term respite care for people recovering from injury or incident. The Housing Authority will lease the respite units to Salem Health, a private non-profit group of hospitals and clinics, who will manage the day-to-day operations of these units. Salem Health care providers will meet with the occupants to ensure they are taking their medication, check on their overall well-being, and provide other supportive services. The occupants of the respite units will enter into temporary occupancy agreements with Salem Health, although the Housing Authority will manage the lease enforcement for these units. Like the SRO units, two respite units will share a single bathroom.

The first floor of the building will also include a warming kitchen and dining room which will be used by residents only, and office space. All three floors of the building will include laundry facilities and public bathrooms.

Other work to be done for the Project will include the installation of an elevator, replacement of building siding, and construction of a parking lot and trash facilities. Flooring will be installed and painting will be done in areas that are not complete.

4. All of the Project’s 37 units will be restricted to occupants whose incomes are no greater than 60% of the area median income.

5. The Project will use the following funds of a public agency:
   - $1,305,000 Oregon Housing and Community Services (“OHCS”) Lift Funds
   - $775,000 Salem Housing Authority Equity Contribution
   - $425,000 City of Salem CDBG Funds
   - $425,000 Oregon Health Authority SPMI Funds

Other funds to be used for the Project include:
   - $525,000 Permanent Loan (NOAH)
   - $270,000 Salem Health Foundation
   - $128,188 Deferred Developer Fee

CONCLUSIONS OF LAW:

1. Under ORS 279C.800(6)(a)(A), a “public works” project includes roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest. The Project includes construction, reconstruction, major renovation and painting of a building that will be carried on and contracted for by a public agency to serve the public interest. Therefore, the Project meets the definition of “public works” under ORS 279C.800(6)(a)(A).

2. Under ORS279C.800(6)(a)(B), the Prevailing Wage Rate laws apply to construction, reconstruction, major renovation or painting projects that use $750,000 or more of funds of a public agency. The Project includes construction, reconstruction, major renovation
and painting, and the Project will use $2,930,000 in funds of a public agency. Therefore, the Project meets the definition of “public works” under ORS 279C.800(6)(a)(B).

3. Under 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. Because the Project is publicly owned and does not meet the exemption under ORS 279C.810(2)(d)(D), it is not necessary to evaluate whether the Project meets the definition of “residential construction” under ORS 279C.810(2)(d)(D).

4. No other exemptions from the Prevailing Wage Rate laws under 279C.810 apply to the 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 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

Coverage Determination – Redwood Crossing
Salem Housing Authority
Page 3 of 5
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: July 10, 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 July 10, 2019, I mailed the Prevailing Wage Rate Determination for the Redwood Crossing project to the requestor and interest parties, as follows:

Nicole Utz, Housing Services Supervisor  
Salem Housing Authority  
360 Church Street SE  
Salem, OR  97301

Debbie Page, Construction Project Manager  
Housing Development Center  
847 NE 19th Avenue, Suite 150  
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Mary Bradshaw  
Housing Development Center  
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Susan Wooley  
PWR Technical Assistance Coordinator  
Wage and Hour Division  
Bureau of Labor and Industries