



November 17, 2011

David E. Delk
Procurement Coordinator
Home Forward
135 SW Ash Street
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Hillsdale Terrace
Requested by: Home Forward

Dear Mr. Delk:

On October 28, 2011, you submitted a request on behalf of Home Forward asking if the Prevailing Wage Rate law would apply to the Hillsdale Terrace project ("project"). Sufficient information to make a determination was received on November 8, 2011, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Hillsdale Terrace is a public housing site owned by Home Forward, a new name for the Housing Authority of Portland. Hillsdale Terrace is located at 6715-6859 SW 26th Avenue in Portland.
2. The proposed project plans to redevelop Hillsdale Terrace to include demolition of all improvements at Hillsdale Terrace including three Home Forward owned duplexes on adjacent lots and new construction of 122 residential apartments in 16 two to three-story buildings, associated on-site improvements and parking, a Head Start building and a management building. The work will also include off-site improvements for work in the adjoining right-of-way to construct frontage improvements including street, curb, landscaping and sidewalks.

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3. The project's 122 residential apartments will all be designated affordable housing.
4. Home Forward is a public agency. Home Forward currently owns the Hillsdale Terrace site and will act as developer and project manager for the project. Home Forward will execute and manage contracts for the project. Once the project is completed, ownership will transfer to a limited partnership that will include Home Forward as a general partner with .01% ownership and a not-yet identified equity investor as limited partner with the remaining 99.99% ownership of the project. The limited partnership will own the entire completed project except for the Head Start building.
5. The Head Start building will be owned solely by Home Forward and not by the limited partnership. The Head Start building will be a stand-alone building designated for the operation of a pre-school program that delivers education, health, nutrition and parenting services. The Head Start program will operate during the normal school year and be open to residents of Hillsdale Terrace as well as income qualified families who live outside the project. It is anticipated that the Head Start building will be available for summer programs that provide services to Hillsdale Terrace residents.
6. The total project is estimated to cost \$53,210,000. Funding for the project includes the following sources:
 - a. Funds of a public agency: \$40,924,000
 - i. Hope VI grant: \$13,900,000
 - ii. City of Portland – Community Development Block Grant (CDBG): \$1,700,000
 - iii. Tax exempt bonds (conventional financing): \$15,500,000
 - iv. Oregon Housing & Community Services (OHCS) weatherization funds: \$324,000
 - v. Home Forward Public Housing Preservation Initiative (PHPI): \$9,000,000
 - vi. Nature in Neighborhood (Metro grant): \$500,000
 - b. Other Funds: \$12,286,000
 - i. Low-Income Housing Tax Credit (LIHTC) equity: \$12,150,000
 - ii. Energy Trust of Oregon: \$86,000
 - iii. City of Portland System Development Charges (SDC) waivers: \$50,000

CONCLUSIONS OF LAW:

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(A) because it is a project for the construction, reconstruction, major renovation or painting of roads, buildings, structures and improvements of all types that is being carried on and contracted for by Home Forward, a public agency.
2. The exemption for residential construction that is privately owned and that predominantly provides affordable housing under ORS 279C.810(2)(d) will not apply to this project because the project includes both residential and commercial space. The proposed Head Start Building does not meet the definition of “residential construction” under ORS 279C.810(2)(d)(D). Moreover, even if the project did not include commercial space, the exemption would not apply because during construction, the project will be owned by Home Forward, a public agency. The project will not be “privately owned” until construction is completed.

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 proposed construction, reconstruction, major renovation and/or painting of the Hillsdale Terrace 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

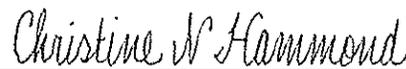
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: November 17, 2011

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 November 17, 2011, I mailed the Prevailing Wage Rate Determination for the Hillsdale Terrace project to the requestor, as follows:

David E. Delk
Procurement Coordinator
Home Forward
135 SW Ash Street
Portland, OR 97204

Certified Mail – Return Receipt Requested
Article #: 7009 2820 0001 4829 2329



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