

August 26, 2009

Claudette M. Luckenbill  
Luckenbill-Drayton & Associates, LLC  
1007 NW Rimrock Dr.  
Redmond, OR 97756

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Hood River Crossing Apartments  
Requested by: Luckenbill-Drayton & Associates, LLC

Dear Ms. Luckenbill:

On August 13, 2009, you submitted a request asking if the Prevailing Wage Rate law would apply to the proposed construction project to build the Hood River Crossing Apartments, located in Hood River, Oregon. Sufficient information to make a determination was received on August 25, 2009, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. Hood River Crossing Apartments will be owned by Hood River Crossing, LLC. LDA-Hood River Development, LLC will own .001 percent of Hood River Crossing, LLC. A tax credit investor who is yet to be identified will own the remainder of Hood River Crossing, LLC. LDA Hood-River Development, LLC is owned by Columbia Cascade Housing Corporation (50 percent) and Luckenbill-Drayton & Associates, LLC (50 percent).
2. Hood River Crossing Apartments will consist of six multi-family two-story buildings. The buildings will not include any commercial or retail space. All of the occupants' incomes will be less than 60 percent of the area median income.
3. Funds used to support this project come from the following sources:

\$187,792	Housing Trust Funds
\$660,000	HOME Funds
\$818,679 (annually)	Low Income Housing Tax Credits

#### **CONCLUSIONS OF LAW**

1. The proposed project to construct the Hood River Crossing Apartments will be privately owned, and funds of a public agency in excess of \$750,000 will be used

on the project.<sup>1</sup> Therefore, the proposed project is a “public works” under ORS 279C.800(6)(a)(B).

2. The proposed project is for residential construction that will be privately owned and that predominantly provides affordable housing. Therefore, the exemption from the prevailing wage rate law provided for in ORS 279C.810(2)(d) will apply to this 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 not apply to the proposed project to construct the Hood River Crossing Apartments.

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

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<sup>1</sup> Pursuant to ORS 279C.810(1)(a)(C), the annual tax credits of \$818,679 to be used on the project are not funds of a public agency. However, the amount of funds of a public agency used on the project still exceeds \$750,000.

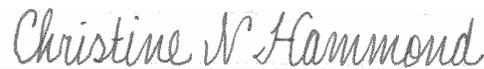
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: August 26, 2009

Brad Avakian, Commissioner  
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in dark ink and is positioned above a horizontal line.

Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## **Certificate of Service**

On August 26, 2009, I mailed the Prevailing Wage Rate Determination for the Hood River Crossing Apartments project to the requestor and public agencies associated with this project, as follows:

Claudette M. Luckenbill  
Luckenbill-Drayton & Associates, LLC  
1007 NW Rimrock Dr.  
Redmond, OR 97756

Roz Barnes, Loan Officer  
Multifamily Housing Section  
Housing and Community Services  
725 Summer St. NE, Suite B  
Portland, OR 97301

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