



December 02, 2013

Riad Sahli  
Housing Project Manager  
REACH Community Development  
1135 SE Salmon St.  
Portland, OR 97214

Re: *Prevailing Wage Rate Determination and Clarification on Applicable Rates*  
Project: Glisan Commons Phase II  
Requested by: REACH Community Development

Dear Mr. Sahli:

On October 29, 2013, you submitted a request on behalf of REACH Community Development asking if the Prevailing Wage Rate law would apply to the new construction of a six-story residential apartment structure known as the Glisan Commons Phase II project. If so, what applicable prevailing wage rates would be used. Sufficient information to make a determination was received on December 02, 2013, and therefore, the commissioner issues the following determination:

#### FINDINGS OF FACT:

1. January 11, 2012, a "Development Property Agreement" was entered into between private entities REACH, Human Solutions Inc., and Ride Connection. The "Development Property Agreement" outlined the terms of the "Combined Glisan Commons Phase I and Phase II projects." It specified that the entity who developed the building and improvements on the "Glisan Commons Phase I" land is a Limited Partnership, which consists of Human Solutions Inc. ("HSI"), a domestic non-profit corporation and General Partner, and Bank of America, the Limited Partner. The Glisan Commons Phase I project began construction in January, 2013, and is still being constructed, and is expected to be occupied by January, 2014. The entity that will continue to develop the building and improvements at Glisan Commons Phase II is REACH Gateway Senior Housing Limited Partnership. REACH Community Development Inc., a domestic nonprofit corporation ("REACH") is the General Partner,

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and Bank of America will be the Limited Partner. Construction for Phase II will begin in February, 2014. The land for both phases is currently, and will remain publically owned.

2. The Glisan Commons Phase II project will consist of a six-story building. The new construction for Phase II will encompass a five-story residential component containing 60 apartment units of affordable housing for senior residents; it will also encompass a one-story ground floor entrance, lobby, and open-air structured parking area, and a shared center plaza space for use by residents and employees of the entire Phase I and Phase II development.
3. Glisan Commons Phase II will be located at NE Glisan Street and NE 100<sup>th</sup> Avenue in Portland near Glisan Street. Glisan Commons Phase I and II are on the same contiguous parcels of land.
4. REACH plans to use both public and private funding for construction and development of Glisan Commons Phase II. Through the Portland Housing Bureau, the City of Portland HOME program is expected to disperse \$880,000 of their funds, in the form of a loan to fund the Glisan Commons Phase II. Additional sources of funding are expected to come from public grants, loans, and other funds.
5. REACH acknowledges that the construction and development of the Glisan Commons Phase II project is a "public work" under Oregon's Prevailing Wage Rate laws.

#### 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 in funds of a public agency.
2. The exemption under ORS 279C.810(2)(d) for projects for residential construction that are privately owned and that predominately provide affordable housing does not apply because Glisan Commons will be more than four stories in height.
3. No other exemptions from the prevailing wage rate law under ORS 279C.810(2) apply to this project.
4. To answer the question of whether Phase I and Phase II can be considered a single project requires an analysis of the factors set for in ORS 279C.827(1)(c) and OAR 839-025-0310. Factors used in making this determination include:
  - The physical separation of the project structures,
  - The timing of the work on project phases or structures,
  - The continuity of project contractors and subcontractors working on project parts or phases,

- The manner in which the public agency and the contractors administer and implement the project,
- Whether a single public works project includes several types of improvements or structures,
- Whether the combined improvements or structures have an overall purpose or function,
- Other relevant matters as may arise in any particular case,
- The anticipated outcome of the particular improvements or structures the agency plans to fund,
- Whether the work on the project was is performed in one time period or in several phases as components of a larger entity.

Phase I and Phase II will serve the same general purpose which is to provide affordable housing. Because Glisan Phase II was documented and originally forecasted to be implemented after Phase I was built, Phase II was anticipated and is a continuation of Phase I. Both projects utilize the same General Contractor (R&H/Colas Construction, LLC). Based on the above factors, the two phases are considered a single project. The applicable rates for the Glisan Commons Phase II project are those listed in the BOLI publication *Prevailing Wages Rates for Public Works Contracts in Oregon* dated July 01, 2011.

**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 new construction of the Glisan Commons Phase II Project. The Glisan Commons Phase II (“project”) is a continuation of the Glisan Commons Phase I project and it will be the second of two phases.

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: December 02, 2013

BRAD AVAKIAN, Commissioner  
Bureau of Labor and Industries



Gerhard Taeubel, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

**Certificate of Service**

On December 02, 2013, I mailed the Prevailing Wage Rate Determination for the REACH Community Development – Glisan Commons Phase II work to the requestor, as follows:

Riad Sahli  
Housing Project Manager  
REACH Community Development  
1135 SE Salmon St.  
Portland, OR 97214

Certified Mail – Return Receipt Requested  
Article #: 7012 3050 0001 7255 3489

Nate McCoy  
Sr. Construction Coordinator  
Portland Housing Bureau  
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Portland, OR 97204

Heather Pate  
Oregon Housing & Community Services  
725 Summer Street NE Ste B  
Salem, OR 97301

  
Monique Soria-Pons  
Compliance Specialist  
Wage and Hour Division  
Bureau of Labor and Industries