

**Affordable Housing Bond
Frequently Asked Questions
on City Procurement Process**

1. Why are bond-financed construction projects subject to the Public Contracting Code (state law) and the City's Procurement Rules?

Because bond projects constructed and owned by the City will be public improvements, the City is required to follow Oregon's Public Contracting Code. The City's Procurement Rules ensure that public improvements are constructed in accordance with the Public Contracting Code as well as implementing other city policies.

2. What are the implications of going through the City's procurement process in terms:

a. Timeline for Development

There are different contracting methods the City may use for the developing and contracting for the construction of new affordable housing under the bond. A broad overview of those options will be presented at the SAG meeting on August 8th, 2017. Generally speaking, the timeline from the time of posting of an RFP to the contractor selection and contract execution ranges from 6 to 24 months. It is at that point that the normal process would begin for pre-development work including permitting, demolition if necessary etc.

The time period from the awarding of a contract to the start of construction will likely be less than the duration of a typical PHB funded development, which varies from an average range of one to two years due to the developer needing to compile financing.

b. Costs of Development

There are a variety of public benefits included in the City's procurement rules as well as other policies that pertain to construction including: fair contracting policies (e.g., DMWESB, the Subcontractor Equity Policy and the Workforce Training and Hiring Policy). Most privately owned PHB funded affordable housing developments will likewise be subject to the City's fair contracting policies.

In addition, because the City must own the bond funded projects, Oregon's Prevailing Wage Law (the "PWL") is expected to apply to all such bond-funded project work. The bond funded projects will be considered "public works" within the meaning of the PWL because the projects will be either "carried on or contracted for" by the City to serve the public interest. ORS 279C.800(6)(a)(A). Prevailing wage typically increases the labor costs in a project by approximately 12% to 18%.

The PWL provides a narrow exemption for certain privately-owned affordable housing projects that is not expected to be applicable to the bond funded projects. ORS 279C.810(2)(d). Most privately owned PHB funded affordable housing developments are subject to the PWL either because: (i) an otherwise exempt mixed-use project is found to have a commercial space that triggers the PWL on the entire project; or (ii) the project uses funds of a private entity and \$750,000 or more of funds of a public agency (in the aggregate) for constructing, reconstructing, painting or performing a major renovation on a privately owned road, highway, building, structure or improvement of any type. Note that just because a privately owned PHB funded

development is found to be a “public work” within the meaning of the PWL, the application of PWL does not subject such projects to the other requirements of the Public Contracting Code or City Procurement Rules. For example, if PHB contracts with a private developer for a mixed-use project and contributes \$750,000 or more in public funds, although the project will be subject to the PWL, the private developer is free to contract with whatever (subject to certain limitations, debarment, etc.) general contractor it chooses without competitive solicitation.