



VAL HOYLE
Labor Commissioner

May 5, 2021

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

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Yaquina Hall/Southfair Apartments Renovation
Requested by: Salem Housing Authority

Dear Ms. Utz:

On April 12, 2021, the Bureau of Labor and Industries received the request you submitted asking if the Prevailing Wage Rate laws would apply to the Yaquina Hall/Southfair Apartments Renovation project. Sufficient information to make a determination was received on May 4, 2021, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. The Housing Authority of the City of Salem (the “Housing Authority”), a public agency under ORS 279C.800(5), currently owns Southfair Apartments located at 1961 Fairgrounds Road NE in Salem, Oregon. The State of Oregon Department of Administrative Services, a public agency under ORS 279C.800(5), currently owns Yaquina Hall, a vacant three-story historic building located at 2575 Bittern Avenue NE in Salem, Oregon. The Housing Authority proposes to renovate both properties and refers to the project as Yaquina Hall/Southfair Apartments Renovation (the “Project”).
2. Prior to construction, ownership of both properties will be transferred to a to-be-created limited partnership (the “Limited Partnership”). The General Partner of the Limited Partnership will be the Housing Authority, with a 0.01 percent ownership interest. The Limited Partner of the Limited Partnership will be US Bancorp Community Development Corporation, with a 99.99 percent ownership interest.
3. The Southfair Apartments complex (“Southfair”) includes six two-story residential buildings that contain a mix of one-, two-, and three-bedroom apartments. Southfair also includes a single-story building that currently houses a management office and vacant space. This building will be converted to house two fully ADA-accessible one-bedroom apartments, along with a community room and storage space. When the Project is completed, Southfair will have 42 apartment units. Other work to be done at Southfair includes installing new siding, windows, and roofs, exterior painting, and extensive replacement and rehabilitation of kitchens and bathrooms. The complex does not include any commercial space.



4. Yaquina Hall, a vacant office building with two floors above ground plus a basement, will be converted to apartments. When renovations are complete, it will include 51 one-bedroom apartments and one studio unit. All units will include full bathrooms and kitchens. The building will also include a community room, laundry room, and office space. The completed Project will not include any commercial space.
5. All of the Project units will be restricted to occupants with incomes no greater than 60 percent of the area median income. In addition, approximately 18 of the Yaquina units will be reserved for individuals suffering from Serious Mental Illness.
6. The Project will use the following funds of a public agency:
 - \$ 6,100,000 Oregon Housing and Community Services (“OHCS”) Serious Mental Illness Funds
 - \$ 1,750,000 General Partner Equity
 - \$ 1,258,830 City of Salem CDBG Funds
 - \$ 1,087,297 Seller Note
 - \$ 400,100 City of Salem HOME Funds
 - \$ 424,720 Deferred Developer Fee
 - \$ 64,344 Purchased Reserves
 - \$ 24,740 OHCS Multifamily Energy Program

Other funds to be used for the Project include:

- \$11,399,633 OHCS 9% Low Income Housing Tax Credit Equity
- \$ 5,442,520 Permanent Loan (US Bank)
- \$ 2,826,729 Historic Tax Credit Equity

CONCLUSIONS OF LAW

1. The Project will use \$750,000 or more in funds of a public agency for renovation and reconstruction of a building. Therefore, the Project meets the definition of “public works” under ORS 279C.800(6)(a)(B).
2. Under ORS 279C.810(2)(d), projects for residential construction that are privately owned and that predominantly provide affordable housing are not subject to the Prevailing Wage Rate laws. “Residential construction” is defined in ORS 279C.810(2)(d)(D) as construction, reconstruction, major renovation or painting of single-family houses or apartment buildings not more than four stories in height. While the Project will be privately owned and will predominately provide affordable housing, the Project does not meet the definition of “residential construction” because Yaquina Hall is an office building rather than an apartment building.¹ Therefore, the exemption from the Prevailing Wage Rate laws under ORS 279C.810(2)(d) will not apply to the Project.

¹ See also: In The Matter of Central City Concern, Case No 66-08. Final Order of Commissioner Brad Avakian Issued March 3, 2009.

3. No other exemptions from the Prevailing Wage Rate laws under ORS 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 Yaquina Hall/Southfair Apartments Renovation 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

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.

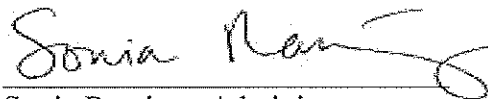
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel 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: May 5, 2021

VAL HOYLE, Commissioner
Bureau of Labor and Industries

A handwritten signature in black ink that reads "Sonia Ramirez". The signature is written in a cursive style with a long, sweeping tail on the "y" of "Ramirez".

Sonia Ramirez, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On May 5, 2021, I mailed the Prevailing Wage Rate Determination for the Yaquina Hall/Southfair Apartments Renovation project to the requestor and interested party, as follows:

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

France Fitzpatrick
Housing Development Center
524 E Burnside Street, Suite 210
Portland, OR 97214



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